Bombay Gazette.

PUBLISHED TWICE A WEEK—ON WEDNESDAY AND SATURDAY MORNING—PRICE RUPEES THIRTEEN PER QUARTER.

VOL. XLVI.] SATURDAY, NOVEMBER 7, 1835. [No. 2,533.

IN THE SUPREME COURT OF JUDICATURE AT BOMBAY.

Plea Side

SHERIFF'S SALE.

Seized by virtue of a writ of Fieri Facias, at the suit of SUCCARAM NARRAYEN,—*Plaintiff.*

Vs.

HURRIDASS TULSEYDASS,—*Defendant.*

NOTICE is hereby given, that this day the 7th November, at 4 o'Clock in the afternoon, will be put up to Sale by public outcry, on the premises, a House assessed No. 24 covered, with its appurtenances, situate within the Town walls in the Bazar Gate street, opposite to MONUCKJEE Sett's Augeary, and in the neighbourhood of a House belonging to HORMUSJEE SHAPOORJEE.

J. LITTLE, *Sheriff.*

Bombay, Sheriff's Office, 7th November, 1835.

શ્રી • મુમ્બઇ • જુડીકેટર • ની •
એ પરીમ • કોરટમોથી *
પ્રથી • શાઈડ *
શરીફનું • વેચાણ *

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ADVERTISEMENT.

APPLICATION having been made to the Supreme Court of Judicature at Bombay, that letters of Administration of the Goods, Chattles, Rights, and Credits, of JOHN CAMPBELL, late a CORNET in the first Regiment of Light Cavalry, of the East India Company, on their Bombay Establishment, deceased, may be granted to WILLIAM FENWICK ESQUIRE, as the Registrar of the said Court, all persons concerned therein are hereby apprized thereof.—Dated this 29th day of October, 1835.

H. E. SOUTHOUSE, *Proctor.*

ADVERTISEMENT.

APPLICATION having been made to the Supreme Court of Judicature at Bombay; that letters of Administration of the Goods, Chattles, rights, and Credits of CHARLES YORKE, late a Lieutenant in the Corp of Artillery of the East India Company, on their Bombay Establishment deceased, may be granted to WILLIAM FENWICK, Esquire, the Registrar of the said Court, all persons concerned therein, are hereby apprized thereof.—Dated this 5th day of November, 1835.

H. E. SOUTHOUSE, *Proctor.*

ADVERTISEMENT.

APPLICATION hath been made to the Supreme Court of Judicature at Bombay, that Letters of Administration, in the Goods of D. I. CANNAN and C. I. F. POTTINGER, severally deceased, and late Lieutenants in the Military Service of the East India Company, on their Bombay Establishment, may be granted to WILLIAM FENWICK Esquire, Registrar of the said Court; all persons concerned therein, are hereby apprized thereof.—Dated 4th November, 1835.

NOTICE IS HEREBY GIVEN,

THAT Sealed Tenders will be received by the Officer Commanding His Majesty's 40th Regiment, for the supply of the following Articles of Provisions, viz.

TEA, SUGAR, and COFFEE, (tea 1 | 3 Black, and 2 | 3 Green.)

These Articles to be delivered free of all expence at the Quarter Master's Stores at "Deesa" in such quantities, as may from time to time be required.

Sealed Tenders to be left at the Quarter Master's Office; none will be received after the 6th of November 1835, nor will any reason be given for the refusal of Tenders.

Required as security, (1000) one thousand rupees, to be lodged with the paymaster of the regiment, and to be forfeited in case of failure of contract.

The contract to commence on 1st December 1835, and end 31st December 1837.

E. MORTIMER, Lieut.,
and Actg. Qr. Mr. H. M. 40th Regt.

Bombay, 7th November, 1835.

JAGONATH GOPALL POY, sole manager of the Temple of *Shree Luxmee Venktesh*, in the Fort of Bombay, most respectfully begs to invite the attendance of all the Hindoos, of any rank or class, on the occasion of RUTH-JATRA (or Chariot Fair) in the Temple; by 5 P. M. on Tuesday, the 10th November, 1835.

Bombay, 7th November, 1835.

TO be sold by public auction on Saturday the 21st instant, at 4 o'clock, (if not previously disposed of by private offer) the well known Substantial and Commodious upper storied Building, with its Outhouses, Stables, &c., and the Garden in which they lie, consisting of one and a half Wheel Oart of several Cocoanut, and other Trees, a Banians' shop and an extra Stable; quite distinct from the Premises, situated in an oart called Kurwal near the Portuguese Chapel in Calbadavie, belonging to the Estate of the late Mr. CHARLES MARSHALL—For further particulars, the plan of the Premises, and the term of sale, apply to either of the Executors, MESSRS. JOHN HAMPTON in the Secretary's Office, or W. J. MARSHALL, School Master, Aguiary Lane.

The Executors are under the necessity of requesting once more of those, who are indebted to the Estate of the deceased, to discharge the same forthwith, to enable them to close the accounts.

Bombay, 7th November, 1835.

MR. TREACHER begs leave to inform the public, that he has commenced business as a Chemist and Druggist (in Rampart Row next door to Eduljee Cursetjees and Son's, Auctioneers) having brought with him a large stock of Medicines of the best quality, from the first houses in London.

The stock comprises as usual every requisite article in his line, with the following and other new Medicines, viz.

Brucine; Emetine; Gentianine; Narcotine; Kreosite; Lupuline; Potassium; Ergot of Rye; Morphia; Acetate of Morphia; Muriate of Morphia; Lodine; Hydrocyanic Acid; Lobelie Inflata; &c. &c. Stomach Pumps, Lavement Apparatus, Medicine Chests, &c.

MR. TREACHER having been engaged in the above business for upwards of 12 years in some of the most respectable houses in London, has made arrangements for a constant supply of the best Medicines, and hopes by care and attention to obtain the patronage of the public.

Prescriptions prepared with the greatest accuracy.

Bombay, 7th November, 1835.

FOR SALE.—Respondentia Bonds, each..... Rs. 1
Ships Articles..... „ 1
Policies of Insurance..... qrs. 2
Bills of Exchange, per set..... „ 2
Interest Bonds..... „ 2
Bills of Lading..... „ 2
Powers of Attorney, each..... „ 2

☞ All Orders for Letter Press, and Copper Plate Printing, will be punctually attended to.

Gazette Office, 7th November, 1835.

BOMBAY BRANCH ROYAL ASIATIC SOCIETY.

THE Members of the Society are informed that Copies of the 1st, 2nd, and 3rd Numbers of the Journal of the Royal Asiatic Society have been received, which may be procured, on application to the Secretary, at the prime cost, of two shillings and six pence, or one Rupee and a half, each Number. The subsequent numbers will also be regularly forwarded to the Society, as soon as they are published.

S. FRASER, *Actg. Secretary.*

Bombay, 4th Nov., 1835.

PROSPECTUS OF THE JOURNAL.

The mode heretofore followed in publishing the Transactions of the Society having been attended with many inconveniences, arising partially or wholly from restrictions on the subjects to be introduced, as well as from the quarto form of the impression, and from the uncertain, but widely extended periods at which the editions were made, the Council has considered it advisable to sanction a regular quarterly publication in octavo, and less limited as to the nature of the materials of which it is to be composed. This arrangement will afford the means of rendering available many valuable contributions, which, notwithstanding their real interest and importance, may not entirely conform to the system on which the quarto publication is founded: and the latter may still be continued whenever the accumulation of matter on subjects more peculiar to its original design shall render any additional volume expedient.

The octavo publication is styled the JOURNAL OF THE ROYAL ASIATIC SOCIETY, will be edited at intervals of three months, and we may trust will become a repository for much valuable information, which, consistently with the views of the SOCIETY, will thus be communicated to the Public. The researches of the learned into the history and customs of the nations of the East in ancient times, their investigations into the yet remaining monuments of early and extensive civilization, may here be placed in contrast with the labours of those who prefer the progress of improvement in the present day, or suggest the means by which that improvement may be accelerated and enlarged; the deductions of philosophy may be compared with the results of experience, and the theories of the speculative produce schemes of practical utility.

The COUNCIL, while thus endeavouring to give greater extension to the operations of the Society, and to increase its claims to public approbation and support, feels that its ability to do so may be materially increased by the earnest and effective co-operation of the Members of the Society, and of all others who feel an interest in the manners, literature, and science of Asia, as well as in the welfare of our empire in the East.

BILLS ON ENGLAND.

ON sale at Messrs. DIROM, CARTER and CO'S. Office, at 1 | 11, 30 days' sight.

Rampart Row, 7th November, 1835.

AGRA BANK.

BILLS on the above Bank will be drawn for small amounts, to suit Shareholders, on application to

DIROM, CARTER AND CO. *Agents.*

Bombay, 7th Nov., 1835.

PROSPECTUS.

TO be Published on the 1st of January (On English Paper and good Type) THE BOMBAY CALENDAR AND DIRECTORY, for 1836, Containing a Historical and Topographical Sketch of the Island of Bombay and its more immediate dependencies—(accompanied by a Map); The Army List, Divisional, Brigade and Garrison Staff, the Medical Establishment, the Civil List, the Home Establishment of the Indian Government, the Ecclesiastical Establishment of the Churches of England and Scotland in India, the Indian Naval List, a List of H. H. the Nizam's Army, a List of the European Inhabitants of the Island of Bombay, Marryat's Code of Signals, with a variety of other matter, which has not hitherto appeared in any similar publication at this Presidency, the particulars of which, will be more fully given, as soon as a Table of Contents to the proposed Calendar is prepared. As only a limited number of copies will be struck off, Subscribers are requested to send in their names to the Gazette office, where copies *five Rupees each*, will be delivered upon Publication.

Gazette Office, 7th Novr., 1835.

FOR FREIGHT OR PASSAGE TO LONDON, AND CAPE OF GOOD HOPE.

THE LADY FEVERSHAM, 450 Tons, G. WEBSTER, Commander, will be dispatched early in November, calling at Tellicherry and Cannanore, carries a Surgeon—Apply to Captain WEBSTER, on board, or at Messrs. DIROM, CARTER and Co's. Office, where plans of the Cabins may be had.

Bombay, 7th Nov., 1835.

FOR PASSAGE TO ENGLAND.

THE HERO OF MALOWN, 500 Tons, will sail in the course of this month, touching at the Cape of Good Hope, and calling at Cork for orders. Carries a Surgeon. Apply to Captain GRUNDY on board, or at Messrs. DIROM, CARTER AND CO'S. office, where plans of the accommodations may be had.

Bombay, 7th November, 1835.

FOR FREIGHT AND PASSAGE TO LONDON.

THE "MARQUIS OF HASTINGS" JOHN CLARKSON, Commander, expected here in all November, and will be dispatched on 1st January—carries a Surgeon.—Plans of her accommodation may be had at the Office of Messrs. McGREGOR, BROWNRIGG AND CO.

Bombay, 7th Nov., 1835

FOR FREIGHT OR PASSAGE TO CALCUTTA.

THE fine New Ship DAUNTLESS, J. PINDER, Commander, 432 Tons register, sails fast, and will be despatched immediately. Apply to

EDMOND, BIBBY AND CO.

Bombay, 7th November, 1835.

FOR FREIGHT OR PASSAGE TO MADRAS.

THE British Ship ANNANDALE, 350 Tons, J. R. HILL Commander, will sail on the 12th instant.

Apply to FERGUSON, TURNER AND Co.

Bombay, 7th Nov., 1835.

NOTICE.

Memorandum of the gross quantity of opium for which passes have been granted from Bombay and Malwa, for the season 1835-36.

BOMBAY.

Passes taken out up to the 28th ultimo..... chests 2,526
Ditto from the 29th ultimo to this day..... chests 46

Chests 2,572

MALWA.

Passes taken out on the 17th ultimo..... chests 103
Ditto on 20th ditto..... 59

Chests 162.

J. TAYLOR, *Warehousekeeper.*

Bombay, 4th November, 1835.

GENERAL ORDERS

BY THE RIGHT HON'BLE THE GOVERNOR IN COUNCIL.

MILITARY DEPARTMENT.

Bombay Castle, 29th October, 1835.

No. 529 of 1835.—By a resolution passed in the general department, under date the 23rd instant, captain Donnelly, of the 1st or grenadier regiment native infantry, has been appointed post master at Belgaum, as a temporary arrangement.

No. 530 of 1835.—The following appointment is made:

18th regiment native infantry.

	Date of appointment
Ensign A Macdonald, to be quarter master and interpreter in Hindoostanee.....	15th Oct. 1835.

No. 531 of 1835.—Lieutenant W. H. Hall, of the 6th regiment, Bengal light cavalry, is allowed a furlough to Europe, for the benefit of his health.

No. 532 of 1835.—The leave to the Neelgherries, granted to captain W. Rollings, of the 2nd or grenadier regiment native infantry, under date the 17th December 1834, and extended on the 25th May last, for the benefit of his health, is prolonged for a period of six months, on the same account.

No. 533 of 1835.—Captain V. F. Kennett, of the 21st regiment native infantry, is permitted to resign his appointment as aid-de-camp to brigadier general Salter, at his own request.

Brevet captain A. P. Le Messurier, of the 23rd regiment native infantry, is appointed aid-de camp to brigadier general Salter, *vice* Kennett, resigned.

No 534 of 1835.—Ensign A. W. Beavan, of the right wing, regiment of European infantry, is permitted to resign his commission in the Honorable Company's service, from the 21st instant.

Bombay Castle, 31st October, 1835.

No. 535 of 1835.—The Right Hon'ble the Governor in Council is pleased to notify, that military pensioners of the government, permitted to reside

in the Bengal provinces, will not be allowed to draw their stipends from the treasuries of civil functionaries, or from any other office than that of the nearest pension pay master.

The following are the stations at which there are pension paymasters, under that presidency.

Murut and Hauper	One pension pay master.
Allahabad	Do. do. ditto.
Benares, Dinapoor and Monghy	Do. do. ditto.
Oude and Cawnpoor	Do. do. ditto.
Barrackpoor and Chitagong	Do. do. ditto.

Bombay Castle, 2nd November, 1835.

No. 536 of 1835.—Colonel L. C. Russell, commandant of artillery, is appointed a brigadier of the first class.

By Order of the Right Hon'ble the Governor in Council,
E. M. WOOD, Lieut. Col.,
Secy. to Govt.

CIVIL APPOINTMENTS, &c.

GENERAL DEPARTMENT.

Bombay Castle, 31st October, 1835.

The Right Honorable the Governor in Council has been pleased to grant Mr. J. H. Bainbridge, of the civil service, leave to travel in the Deckan and Guzerat, for four months, on sick certificate.

TERRITORIAL DEPARTMENT, REVENUE.

Bombay Castle, 31st October, 1835.

Mr. A. C. Stuart, assistant to the collector of Kaira, is allowed leave of absence for one month, to proceed to the presidency, for the recovery of his health.

Mr. J. H. Jackson, acting collector of Ahmedabad, is permitted to proceed into the districts on deputation, from the 1st proximo, for the purpose of making the revenue settlement.

Bombay Castle, 4th November, 1835.

Mr. John A. Dunlop, acting principal collector at Dharwar, took charge of that collectorate on the 26th ultimo, from Mr. A. N. Shaw.

Mr. J. L. Johnson, superintendent of the experimental cotton farms in Guzerat, is allowed leave of absence for one month, to visit the presidency, on sick certificate.

Mr. R. D. Luard, acting sub-collector of Sholapoor, is permitted to proceed into the districts, to make the revenue settlement, and to enquire into the outstanding balances.

JUDICIAL DEPARTMENT.

Bombay Castle, 31st October, 1835.

Mr. G. Coles, received charge of the adawlut at the detached station of Rutnagherry from Mr. B. Hutt, the senior assistant judge and session judge on the 17th instant.

Bombay Castle, 2nd November, 1835.

Mr. J. W. Musqratt, assistant judge in charge of the adalwut at Amednuggur, is allowed seven days leave of absence to visit Khundalla, on private affairs, under the provision of section XIV of the absentee regulation from the date of his departure from Nuggur.

Bombay Castle, 3rd November, 1835.

Mr. W. J. Hunter received charge of the adawlut at the detached station of the Rutnagheery from Mr. G. Coles, the first assistant collector, on the 24th ultimo.

Bombay Castle, 4th November, 1835.

Mr. W. E. Frere, assistant judge and session judge of Ahmedabad, delivered over charge of the adawlut to Mr. J. S. Law, the acting assistant judge and session judge, on the 25th ultimo.

Mr. P. W. LeGeyt, acting judge and session judge of Ahmedabad, received charge of the adawlut from Mr. J. S. Law, of an the 26th ultimo.

SEPARATE DEPARTMENT.

Bombay Castle, 2nd November, 1835.

Mr. Hardinge R. Stracy, is permitted to remain at the presidency, until the next examination takes place.

By order of the Right Honorable the Governor in Council,
E. H. TOWNSEND,
Actg. Sec. to Govt.

GENERAL DEPARTMENT.

Bombay Castle, 2nd November, 1835.

W. H. Wathen Esq. secretary to government, having returned to the presidency, has this day resumed charge of the general and Persian departments, and will also conduct the duties in the secret and political departments.

E. H Townsend Esq. acting secretary to government in the territorial and commercial departments, to contiuue in charge of the judicial department.

Bombay Castle, 4th November 1835.

Lieutenant W. D. Graham, of the engineers, who is placed under the orders of the collector of Khandesh, has been allowed leave of absence from the 1st to the 30th of this month, to visit the Presidency.

By order of the Right Hon'ble the Governor in Council,
W. H. WATHEN,
Secy. to Govt.

COURT MARTIAL ON CAPT. MULLER OF H. M. 6TH REGT.

Adjutant General's Office, Bombay, 28th October 1835.

By the Commander in Chief.

The following General Order issued to His Majesty's Troops serving under this Presidency, is published for the general information of the Army,

No 599.

Head Quarters, Poona, 24th October, 1835.

GENERAL ORDERS.

At a General Court Martial assembled at Deesa, on the 27th day of August 1835, of which Major R. Sutherland, 13th Regiment Native Infantry was President, and the following Officers Members :—

Captains Murphy and Crawford, His Majesty's 6th Foot.

" Paul, 3rd Regiment Light Cavalry.

Lieutenant and Brevet Captains Allen and Kelly. His Majesty's 6th Foot.

Lieutenant Lechmere, 3rd Troop Horse Brigade.

Lieutenants Dennis and Lucas, His Majesty's 6th Foot.

Lieutenants Chambers and Sparrow, 13th Regiment Native Infantry.

Lieutenant Ralph, His Majesty's 6th Foot.

Lieutenant Williams, 13th Regiment Native Infantry.

Lieutenants Bristow and Richardson, His Majesty's 6th Foot.

Lieutenant and Brevet Captain Frederick Muller of His Majesty's 6th Foot, was brought to trial on the following Charge preferred against him by order of His Excellency the Commander in Chief.

For disobedience of the General Order by the Commander in Chief, dated 15th May 1835, in neglecting while on duty as Orderly Officer, to attend and satisfy himself that a private, named James Malone, was drunk when confined in the Quarter Guard of His Majesty's 6th Regiment at Deesa, on or about the 19th June 1835, and by such neglect incapacitating himself for appearing as a Witness on the Prosecution, at the trial of the above mentioned Soldier, as directed in the aforesaid General Order.

Upon which Charge the Court came to the following decision :—

Revised Finding and Sentence.—The Court having fully and maturely re-considered all that is recorded on the Proceedings, and having further duly weighed and considered the observations contained in the letter from the Military Secretary to the Commander in Chief, which has been laid before them, are of opinion that the Prisoner Lieutenant and Brevet Captain Frederick Muller, of His Majesty's 6th Regiment of Foot, is Guilty of disobedience of the General Order by His Excellency the Commander in Chief, dated 15th May 1835, to the extent of not having personally inspected the Prisoner Private James Malone, and thereby incapacitating himself for appearing as a Witness on the Prosecution, at the trial of the abovementioned Soldier, but they do acquit him of that portion of the Charge in which he is accused of neglecting to attend at the Quarter Guard of His Majesty's 6th Regiment of Foot.

The Court having also maturely considered the Remarks contained in the letter from the Military Secretary to his Excellency the Commander in Chief, on their former Sentence respectfully beg to adhere to the same, vizt. they do not attach any culpability to the conduct of the Prisoner deserving further punishment than he has already undergone, in having been twice reprimanded in a very severe and public manner.

DISAPPROVED.
(Signed) JOHN KEANE,
Lieutenant General, Commanding,

Remarks by the Commander in Chief.

The Court having found the Prisoner Guilty of the crime with which he was charged, namely, disobedience of that particular General Order, an adequate punishment ought to have been awarded.

The Court appears not to have considered that in acting as they did, they assumed to themselves a power which belonged to the confirming authority alone ; for whatever might be their opinion as to the motives which actuated the Prisoner, and however severe the reprimands he had received for the neglect of a duty enjoined by the General Order in question might seem, no such circumstances should have been allowed to influence their judgment on the case as it appeared in Evidence before them, but such measure of punishment should have been awarded as was commensurate with the degree of culpability proved ; the circumstances referred to, might then have been brought to my notice as Commander in Chief, either as grounds for a recommendation to lenity, or in the form of remarks.

After the revision of the Court it would have been much more proper for them to have given me credit for not advising an incorrect course, than to have relied on a precedent (that of the trial of Assistant Surgeon Fergusson of the 71st Regiment, in March 1835), the full particulars of which they could not have known, and in which they Court had on the whole case awarded the highest punishment (Cashiering) which could be inflicted under any of the Charges, and where, consequently no practical good could be answered by re-assembling the Court in order to consider the punishment due under particular Charges, I do not however dwell longer on this circumstance, as no substantial injustice has been committed, in as much as it appears that Lieutenant and Brevet Captain Muller was twice severely reprimanded for the offence, and therefore, I should certainly have remitted any further punishment had it been awarded. I however conceive it to be my duty to animadvert on the revised finding, as very objectionable.

Lieutenant and Brevet Captain Muller was charged with neglecting to attend and satisfy himself that Private Malone was drunk, when confined in the Quarter Guard of His Majesty's 6th Regiment. It appears in Evidence, that Private Malone was confined not in the Quarter Guard, but in a Cell, and it is clearly proved that the Officer did neglect to attend and satisfy himself that Private Malone was drunk when confined in such Cell, unless it can be pretended that he attended in the Cell by approaching the door of the Cell from the outside, without opening it.

It is plain on all principle and on all precedent, that the Court on this state of facts ought to have found Lieutenant and Brevet Captain Muller guilty of the whole offence charged, only noticing the error of the Charge in misdescribing the place where Private Malone was confined—an error totally unconnected with the merits of the case. The Court however has taken advantage of this error to make an exception to their verdict of guilty. The revised finding " acquits" Lieutenant and Brevet Captain Muller of that portion of the Charge in which he is " accused of neglecting to attend at the Quarter Guard of His Majesty's 6th Regiment." This finding is quite inconsistent with itself, as well as with a correct administration of Military Law, in as much as by the same rule the Officer ought to have been acquitted altogether, since he was also charged with neglecting to inspect Malone when confined in the Quarter Guard, and could not be guilty of neglecting to inspect a person in a place where such person was not present.

In disapproving the finding, I have thought it necessary to state the grounds of my disapproval, for the future guidance of Courts Martial assembled under my Orders : but as the finding of the Court cannot again be revised, and as no punishment has been awarded by the Court, and moreover, as Lieutenant and Brevet Captain Muller appears to have been reprimanded by Major Algeo, in command of the Regiment, previously, I direct that he return to his duty. It is however, necessary he should understand for the future, that he is bound to obey strictly, the Orders of his superiors, without questioning the policy or propriety of their being issued, and of the meaning of which he appears so totally incapable of judging. In short, the line of Defence adopted by Lieutenant and Brevet Captain Muller, is most highly reprehensible, and such as can never be tolerated in any person or body of persons bearing a Military character ; for he appears to think that he is at liberty to use his discretion as to what part of the Orders of his superior he shall obey, and what he may upon his own judgment disobey. Lieutenant and Brevet Captain Muller has been ill advised in setting forth such doctrines as are to be found in his Defence, which are altogether untenable ; but I entertain the hope, that this admonition will be a warning to him not to fall into similar errors for the future.

With Major Algeo's manner of proceeding throughout, in the transaction connected with this trial, I have had the strongest reason to be dissatisfied. It appears that Major Algeo, as Commanding Officer of the 6th Regiment, took no notice of the disobedience of Orders of which Lieutenant and Brevet Captain Muller was guilty, until the circumstance was commented upon in a Brigade Order by Colonel (now Brigadier General) Salter, who pointed out the impropriety of Major Algeo not enforcing the Commander in Chief's General Order of the 15th May 1835. It was then only, it occurred to Major Algeo, to censure Lieutenant and Brevet Captain Muller, which he did in very severe terms on the 25th June, and again before the Regiment on the 1st July. Had Major Algeo however, properly exercised his Command, he ought to have placed the Officer who had disobeyed the General Order in question, in arrest, long previously to the time when the first reprimand was given ; for unless Orders are obeyed, it is obvious that duty cannot be carried on, and that discipline and the well being of the Service must alike be at an end.

A Commander in Chief has a right to look to Officers in Command of Regiments for the support which their situation demands they should afford him, and in no way can that support be more beneficially given, than by their insisting upon the Officers and Soldiers under their Orders, performing every duty and obeying every Order which they may receive, as having emanated from their superiors ; but a commanding Officer should never pass over unnoticed, as Major Algeo appears to have done on that occasion, a glaring instance of neglect of duty and disobedience of Orders.

* * * * * *
* * * * * *

(Signed) JOHN KEANE,
Lieutenant General, Commanding.

Head Quarters, Poona,
24th October 1835.

Lieutenant and Brevet Captain Muller will be released from arrest, and return to his duty.

By Order of His Excellency the Commander in Chief,
(Signed) W. BARNES, Captain,
Major of Brigade K. T.

By Order of His Excellency the Commander in Chief,
STRATFORD POWELL, *Lieut. Col.,*
Adjutant General of the Army.

DOMESTIC OCCURRENCES.

DEATHS.

At Sholapoor on the morning of the 30th of October, after a long and afflicting illness, in the 48th year of her age, Catharine Helena, Wife of Captain James Cocke, commanding 1st Troop Horse Artillery,

At Ahmednugger on the evening of the 25th of October, after a lingering sickness of six months, Mr. W. C. Batch, Sub-Conductor of Ordnance, deeply regretted by all who knew him.

MILITARY ARRIVALS.

ARRIVALS.

Aasistant Surgeon B. P. Rooke, 5th Regt., from Poona.

Surgeon D. S. Young, Staff, from Hyderabad.

Captain Molesworth, 11th Regt., from Neilghery Hills.

Captain Jameson, 18th Regt., from Kulludghee.

Lieutenant Colonel Powell, A. G. of the Army, from Deckan.

DEPARTURES,—None.

SHIPPING REPORT.

ARRIVALS,—None.

DEPARTURE.

Nov. 3rd,—Brig Robert Quayle, Adam Bleasdale, Master, to Alleppy and Liverpool.

VESSELS EXPECTED TO SAIL.

Vessels names.	Date of intended departure.	To what port.	Touching where.
Cyrene	Underdispatch	Bushire	Muscat.
Princess Charlotte,	8th November	Liverpool	Allepey.
Malabar	Do. do. do.	Bordeaux	Coast.
Syria	10th do.	Liverpool	No where.
Boyne	15th do.	London	Cape.
Lady Feversham.	Do. do.	Ditto	Cape and Allepey.
Albion.	25th do.	Liverpool	St Helena.
Hero of Malown	23rd Decr.	England.	Cape and [Cork.
Duchess of Clarance.	8th Nov.	Liverpool	
Wm. Rodger.	10th do.	China.	
Dauntless.	8th do.	Calcutta.	

SHIPS LOADING.

For London,—Wm. Ritchie, Boyne, and Lady Feversham.

Do. Liverpool,—Barque Syria.

Do. Bengal,—Dauntless.

Do. China,—William Rodgers.

Do. Bordeaux,—Malabar.

Do. Boston,—American,—Ship Shepherdess.

VESSELS IN THE HARBOUR.

H. Co's. Ship Hastings, Receiving and Guard Vessel.

Do. Do. Floating Chapel—Aurora.

Do. Do. Steamer Hugh Lindsay.

Do. Do. Schooner Cyrene.

Do. Do. Surveying Brig Palinurus.

FREE TRADERS.—Wm. Ritchie, Princess Charlotte, Boyne, Barque Syria, Duchess of Clarence, Lady Feversham, Annandale, Emmie, Albion, Dauntless, Gilmore, and Hero of Malown.

COUNTRY SHIPS.—George Cruttenden, Nasserath Shaw, Barque Meccai, Discovery, Tauze, Syed Bin Calfan, Grab Shaw Byramgore, and Sir Herbert Compton.

Portuguese,—Saudade.

French.—Malabar and Marie.

American,—Shepherdess, Enterprise, and U. S. ship Peacock.

A LAMENT.

Bereft of a' that's dear to man,
A home, a friend sincerely true,
The heart strings' happy thrillings gone
Wi' her wham I was wont to woo ;
Doom'd never more to pledge anew
Love's hallow vows of early days,
When hand in hand we range'd woods thro
Whar bonny Ayr meand'ring strays.

But tho' it's been my sad mishap
To wander far o'er ocean wide,
Can I forget the wee snaw-drap
Whilk bloom'd upon the hillock's side,
Wi' ilka bird the woodland's pride
Wha piped sae sweet their lovelike lays !
How happily my hours would glide !
Whar bonny Ayr meand'ring strays.

Let others joy in foreign scenes,
Paint landscapes pleasing to the eye,
My bliss (were Annie in her teens
Whar native streams run purling by)
Would be on gow'any banks to lie,
And heart felt sing " auld Nature's" praise ;
Such were my early hours of joy
Whar bonny Ayr meand'ring strays.

I knew not then the sacred worth
Of home, of friend, or lassie true ;
On life's rude ocean I launch'd forth
To lands I little dreamt or knew :—
Ah ! I've had bitter cause to rue
Forsaking Scotia's heathe'ry braes ;—
Flow on salt tears !—I bade adieu
Whar bonny Ayr meand'ring strays.

HIGH WATER TABLE.

Nov. 1835.	A. M.	P. M.
7th Saturday	0 1	0 15
8th Sunday	0 29	0 44
9th Monday	1 0	4 16
10th Tuesday	1 33	1 50

TO CORRESPONDENTS.

FOUNDLING'S communication to be noticed in our next.

ANTE HUMBUG cannot hold more lightly than we do the " ability or heart" of the individual whom he vituperates, but we must take a different way of shewing him up than our correspondent suggests.

THE GAZETTE.

SATURDAY, NOVEMBER 7, 1835.

No arrivals from Sea, since our last publication.

WE observe by a circular issued yesterday that the *Hugh Lindsay* Steamer is positively to start from hence for the Red Sea on the 10th instant. The following we believe to be a correct list of the Passengers to go by her.

Charles Norris Esq., Mrs. Norris, James Henderson Esq., Mansfield Forbes Esq., Captain H. G Roberts, 13th Regt., Lieut. R. Knox 4th Drs. Lieut. Huband, 4th Drs., Wm. Jeaffreson Esq., G. Lungley Esq., Ensign Travers, 13th Regt., Lieut. Stamford, H. Arty., Lieut. Sharp, I. N. to join the *Clive* now in the Red Sea.

WE observe by the *Bengal Hurkaru* of the 23rd ultimo that the Ship *London*, from London the 17th July, had arrived there. The only intelligence received from her at the time of going to press was " No Governor General appointed." This was conveyed to Calcutta by telegraph.

In the next Bengal Papers we shall expect to have some English news.

IN our publication of the 31st ultimo we alluded to a Court Martial which a Correspondent informed us was to be held on an officer for a breach of the late order by the Commander in Chief, regarding soldiers in a state of drunkenness, and to-day we give the proceedings of that Court Martial. When we wrote on the subject we were not aware that the Court had actually been held.

In those proceedings there appear two features which it may be of importance to draw to the attention of our Military readers.

The officer in question was charged with a neglect of duty as Orderly officer, to attend and satisfy himself that a private, named James Malone, was drunk when confined in the Quarter Guard of H. M. 6th Regt. at Deesa, on or about the 19th June 1835. The finding of the Court was, in effect, that the Prisoner was guilty of disobedience of the order to the extent of not having personally inspected the party accused of drunkenness, but not guilty of neglecting to attend at the Quarter Guard, and the sentence appears to have been in the following words " they (the Court) do not attach any culpability to the conduct of the prisoner deserving " further punishment than he has already undergone, in having been twice reprimanded " in a very severe and public manner."

We think the Court erred in thus disposing of the case. They were assembled,—not to ascertain whether a further punishment was necessary or not, for that point was, if we may use the expression, *coram non judice*, but whether the Prisoner was or not guilty of the offence charged. Having found him guilty, it would appear to us they had no alternative but to award a punishment corresponding with the degree of guilt, without regard to any thing that took place *prior* to the convening of the court.

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A sentence of "guilty" is now on record, and the same record bears reference to something which occurrred sometime before, as the punishment which the offence so proved, merited, and which the Prisoner is now to put to account and take credit for!

Yet, apart from the law of the matter, we must admit that the circumstances under which the Court Martial was convened, formed sufficient grounds of justification for the Court to adopt the course they did. To the members of that Court it did appear,—as it certainly must appear to any man who reads the proceedings, and knows the circumstances, that Captain Muller had suffered punishment enough for the offence of which he was guilty; nor had they a right to expect (certainly not as a matter of course) that an authority who would convene a Court to try matters for which the accused had already suffered punishment, would, in disposing of their sentence, take the punishment so suffered, into account, and that thus the court and its proceedings were only intended as a stately parade of authority by which nothing serious was meant. We say they had no right to expect this, nor did they; and their finding seems rather to have b en directed to the prevention of any exercise of discretion in the matter.

The Commander in Chief makes some remarks on the finding of the court with regard to the place where the Soldier had been confined, in part of which we think he is correct, and part not. Captain Muller was charged with neglecting to attend and satisfy himself that Malone was drunk when confined in the Quarter Guard. The evidence did not bear out that Malone was confined in the Quarter Guard, but that he was in a cell. The Commander in Chief says, you ought, "on this state of facts, to have found Captain Muller guilty of the whole offence charged, only noticing the error of the charge in misdescribing the place where the prisoner was confined,—an error totally unconnected with the merits of the case."—The prisoner was charged with a distinct and positive offence, vizt. for not satisfying himself &c, when Malone "was in the Quarter Guard,"—on that charge did he take his trial—of it he was guilty or not guilty,—and the Court found that he was not guilty of any such neglect, in so far as the evidence given proved that the individual accused of having been drunk was *not* in the Quarter guard, or rather, that there was no person in the Quarter Guard to be inspected. The charge against the Prisoner was one of those which, in the practice of Military and Civil law, requires to be well and minutely defined, to prevent the possibility, as far as human means can go, of confounding one crime, and one time or locality with another.

But certainly the court are inconsistent in the further portion of their finding. The charge was such that one portion of it depended on the other. If Captain Muller is acquitted of neglect in attending at the Quarter guard, to inspect Malone, why, then it follows, that he is guilty of no portion of the charge. The charge does not embrace the duty of inspection generally, but inspection at a particular place,—the words are, not "for neglecting to attend and satisfy himself that Malone was drunk," but that he was drunk "when confined in the Quarter Guard." There was no such person drunk in the Quarter Guard, and therefore Captain Muller could not by possibility have inspected him there,—and by consequence was not guilty of the neglect (as the Court have found) which the charge imputes to him. The remarks of the Commander in Chief on this point are to the purpose.

There is a further view which we think the public are likely to take of this Court Martial. It may be asked was it or not known to the Commander in Chief, when he convened the Court Martial, that Captain Muller had been twice severely reprimanded by his commanding officer (and once, we have heard, by Brigadier Salter) for the same offence, for which he was now to be put upon his trial? So far as the Commander in Chief's right to appoint a Court Martial goes we of course cannot impugn it, but it certainly appears to us that, so far as Captain Muller was concerned, he had a right to plead that punishment in bar of any further trial. That the officer who gave those reprimands did or not act according to Military law was not for Captain Muller to inquire,—enough for him that he received his punishment.

Suppose the case of a person who is taken up for some offence committed in the limits of any two parishes in London. He is brought to the nearest police office, and receives sentence of imprisonment and pilory, both of which he undergoes; but just as the imprisonment is about expiring, the other Parish comes forwards and says, "the offence was committed within our limits"—and we must have the criminal brought to punishment;—what would be the answer? The prisoner has already suffered punishment for his offence against the laws.

Yet the circumstances under which Captain Muller was brought to trial, appear very much like the picture we have drawn.

THE *Madras Courier* of the 26th ultimo announces the arrival there of the *Exmouth*, from London the 17th June, having the Bishop of Madras and his family, as Passengers.

AMONG our extracts of this day will be found a portion of the address by the Chief Justice of Van Dieman's land on the Trial of a Mr. ROBERTSON, Editor of a Paper in that Colony, called the *True Colonist* for a libel on the Governor. The license of the press must have been much abused if the charges were untrue;—that they were so would appear from the tone of the sentence passed.

The East Indian United Service Journal of last month has just come to hand. We are glad to see this work increase in interest as it gets older. The present number contains several very interesting communications, one or two of which we have extracted in to-day's paper.

The series of Letters by the Editor himself to the Commander in Chief of India on the condition of the Bengal army, and bearing the motto "ne vile Fano," are ably written, and may be of much use, but we think their tone might, with advantage, be less dictatorial, as few men like advice given in such peremptory language, particularly where unasked for, and their dislike may mar the effect which it would be desirable the counsel should produce.

A number of another publication from the same Press entitled "*The Bengal Sporting Magazine*" reached us about a fortnight ago. It contains several spirited articles, and bids fair to be a great favorite with the sporting world of India.

We think the Editor has acted judiciously in dispensing with the dashing external of the Journal, as it had rather an air of the gingerbread about it; and as the work is intended to be conducted on the principle of the United service Journal at home, we think a device similar to that which appears on the cover of the latter, might not be a bad exchange, substituting the present Governor General for Nelson, and Sir Henry Fane (if he deserves that mark of respect) for the Duke of Wellington, or, if associations are necessary to give effect to the device, let some by-gone favorite of the army have the preference.

CALCUTTA.

The Shipping Report of this-morning announced the arrival of the *Lawrence*, Gill, from Liverpool 29th June, and the *Nabob*, Putream, from Antwerp 25th June,—*Bengal Hurkaru, October* 22.

The ships from England have come tumbling in upon us so fast, that we are confused with the mass of Papers which have come to hand. Two more arrivals were announced yesterday. The *Lawrence* from Liverpool the 29th June and the *Herefordshire* from London the 11th July. We had not received the list of passengers by the last named ships, when we went to press. —*Ibid.*

The Shipping Report of this morning announced the arrival of the *Herefordshire*, from London 2d and Plymouth 9th July; the *Hydroos*, Nacoda, from Bombay 6th and Allepee 25th ultimo, and the *Vestal*, Syed, from Muscat 1st ultimo. A list of passengers by the *Herefordshire* will be found under the usual head.

The Semaphore of to-day also reported the arrival of the *London*, Wimble, from London 17th July and Portsmouth. The only item of intelligence semaphorically reported from this vessel is "No Governor-General appointed;" but that we of course required not to be told, as Lord William Bentinck could not have arrived in England ere the middle of July, and Ministry were pledged not to fill up the appointment until two months after his arrival,—*Bengal Hurkaru, Oct.* 23.

The following is the result of the trial on the surviving parties to the duel at Gibraltar, in which the officer who was killed, was forced by his Challenger's second, to get out of his bed in the dead of the night to meet his opponent:—

COURT MARTIAL.—The sentence on the officers of the 95th Regt. engaged in the fatal duel which took place in the Mediterranean has been promulgated. They were found guilty of manslaughter, and the court awarded the following sentences:—To Lieut. J. J, Whiting and Lieut. and Adjutant Collard four years' imprisonment to each, in any of his Majesty's common jails; to Ensign M'Donald six months' imprisonment but recommended all to the mercy of his Majesty. The King has been pleased to remit the imprisonment, and order that Lieut. and Adjutant Collard be dismissed the service, after being allowed the price of his commission; that Lieut. Whiting be removed to another corps, and that Ensign M'Donald be admonished and return to his duty in the regiment. —*Globe, July* 2.—*Ibid.*

By a paragraph headed "Another Vampyre," which we quote from the *Satirist*, we learn that the individual exposed by Mr. Dawes in the article headed "Extraordinary Case," inserted among our European extracts yesterdey, is Ensign Burton of the yeoman guards—a very bright ornament of the service and the aristocracy he must be!—*Ibid.*

Some remarks of the *Englishmen* on the state of the Master's Office will be found in another column. The superior attention of the present acting Master naturally renders more palpable the acknowledged inefficiency of his predecessor; but it is surely unjust to tax Mr. Money with "some insolence of office," for his character was rather distinguished for a gentlemanly deportment and great suavity of address. We are glad to see a glimpse of some important reforms in that office, by the introduction of new rules. The greatest reform of all, however, and that which is most needed, is a reform in the system of patronage, which in our Indian Courts of law, more perhaps than in any department of official administration, has been thought by the public at large to sacrifice their interests in order to provide for relatives and personal friends, and thus, instead of cutting down the emoluments of an overpaid office, we have seen these subdivided between two or more, and at another time offices seemingly incompatible and of high responsibility, held by the same individual. —*Calcutta Courier, October* 21.

MEDICAL AND PHYSICAL SOCIETY.

Proceedings of a Meeting of the Medical and Physical Society of Calcutta, held at the Asiatic Society's apartments, on the 3rd of October, 1835.

One of L'Estrange's Calculo-Fractors was exhibited to the Meeting by permission of the Medical Board, and the Secretary took the opportunity to mention, that sets of the instrument had been placed at the disposal of Superintending-Surgeons of Divisions for the use of the Medical officers serving within their several circles.

John Sawers, Esq. Officiating 3d Member of the Medical Board of Bengal, and John Scott, Esq. Secretary, to the Medical Board of Bombay, proposed at last meeting, were elected Members of the Society.

H. Hough, Esq., Superintending-Surgeon of the Saugor circle, and Allan Webb, Esq., Assistant-Surgeon on this establishment, were proposed as members of the Society, the former by Mr. Hutchinson and Dr. Cameron, and the latter by Dr. Stewart and Mr. Hutchinson.

R. J. Brassey, Esq., Assistant-Surgeon, requested that his name might be withdrawn from the list of members of the Society, which was accordingly done.

Mr. Corbyn called the attention to the Society to his proposal to be allowed to introduce a reporter at the meetings of the society; the motion having been seconded by Dr. Stewart was after some discussion, put to the vote and negatived.

The following communications were then read viz: two cases of disease, successfully treated with magnetism, by R. Tytler, Esq., M. D.

The first occurred in a Moohummudan of 40 years of age. He was severely affected with violent pain in the shoulder, hip-joint and lower extremity of the right side, for which he received two applications from the magnetic wheel. He declared himself to be perfectly relieved, and has since continued free from pain.

The second case was one of ulcer and occurred in a sepoy of the 34th Regiment N. I. He was admited into Hospital on the 1st of June, on account of an ulcer, on the front part of the leg above the ankle, of the size of a rupee. Four days after, Galvanism was applied by causing him to hold the copper wire in his hand, while the extremity of the zinc wire, in the manner of an escbarotic, was applied to the edges and surface of the ulcer. The application of the Galvanism occasioned considerable pain; at the end of four applications however the ulcer had completely cicatrized, and the man was discharged cured, after having been from the first, only 13 days in hospital. Throughout, simple dressing was employed, with the view of covering or protecting the sore, and nothing farther. Dr. Tytler is of opinion that, by the usual means he would not have succeeded in healing this ulcer in less than two months.

An account of a case of Osthexia, by R. Tytler, Esq. M. D. the subject of this case was a Hindoo about 25 years of age. The bones of the Cranium and the Cervical vertebree are described as emitting—when struck, an extraordinary hollow or ringing sound, as if the upper part of an empty puncheon were struck with a stick, sometimes the sound was sharper, as if a brass vessel or glass shade were filliped with the finger nail, The trachea, when struck, emits a remarkable sound, as if a loose body were shaken within a tuble of wood or metal. The Cartilaginous rings appear to be very rigid, and towards the upper part crepitate, on being rubbed against each other. The bones of the other parts of the body appear natural. The man states the scalp to be insensible, and allows his hair to be plucked out, without evincing pain; he complains of a burning sensation on the surface of the body, and likewise in the stomach after taking food: he likewise asserts that he cannot sleep, and has not slept for two years. There is some degree of wildness in his looks, but he is perfectly intelligent and answers questions readily. His symptoms he ascribes to witchcraft.

The following work was presented for the Library, viz.

Hutchinson's Report on the Medical management of Indian Jails by the author.

The following original communications were presented at the Meeting, viz.

Observations on some diseases of European seamen in Bengal, by D. Stewart, Esq. M. D.

A case of Extensive contused wound of the integuments of the head, by R. H. Irvine, Esq.

A Case of dislocation of the lower jaw, of forty days standing, successfully treated, by R. H. Irvine, Esq.

The following papers were then read and discussed, viz.

A case of snake bite successfully treated by blood letting and large doses of Ammonia, by T. J. Smith, Esq. Assistant-Surgeon Horse Artillery Bangalore.

Memorandum of a post mortem examination of a case of extra—Uterine pregnancy by J. S. Login, Esq., Assistant-Surgeon.

Case of abscess of the liver, by W. Gordon, Esq., Assistant-Surgeon.

At half past one o'clock, P. M., on the 30th of June last, Mr. Smith was called to see the subject of his case, a robust cooly, who had been bitten about quarter of an hour before, in the hand, by a Cobra-de-Capella. The man was quite insensible, and frothing at the mouth, the breathing quick and hurried, the pulse small and irregular, beating 30, the skin cold and the pupils contracted; a ligature was tightly applied above the elbow, the wound cauterized, and two drachms of liquor ammoniæ exhibited in an ounce of water. At twenty minntes to 2 o'clock, there was no improvement, the hand and arm were swelling, and the liquor ammoniæ was repeated. At 15 minutes to 2 o'clock the man was totally insensible, torpid and heavy: a vein was opened. At 5 minutes to 2 o'clock about forty ounces of blood had been abstracted, on which the circulation seemed to be relieved—pulse 60 softer and fuller, skin warm, had vomited twice, there was no decided improvement however; the liquor ammoniæ was repeated with half an ounce of brandy. At 2 o'clock appeared sinking, the liquor ammoniæ and brandy repeated. At 2-5 improving, great irritability of stomach, the draught repeated with the addition of a few drops of laudanum—nitric acid applied to the wound. At 2-15 the pulse intermitted but was of tolerable strenght; slight appearance of stertore several gurrahs of water were dashed over the head, which seemed to rouse the patient. At 2-20 sinking, skin cold, pulse small hurried and intermitting. A stimulating liniment to the head and the following draught given; liquor ammoniæ four drachms in four ounces of brandy very slightly deluted. At 2-30 appeared inclined to rally, draught repeated as above, and sinapisms applied to the extremities. At 2-35 vomited the draught, to have half a drachm of carbonate of ammonia in an ounce of water. At 2-45 hand greatly swollen, draught repeated. At 2-55 slightly convulsed—pulse again compressed, intermitting and small, draught repeated. At 3 o'clock vein again opened, blood at first dark and venious, but after the abstraction of ten ounces it became of natural appearance; is slightly sensible. At 3-15 is quite insensible, but there is no stertor. At 3-25 pulse again hurried and compressed—draught repeated, and nitric acid blister applied to the nape. At 3-30 appeared sensible of the pain of the blister and the rawness of the fauces. At 3-40 pulse again becoming small and compressed. Vein re-opened and eight ounces of dark venious blood withdrawn, which seemed to relieve him. Is now able to speak. At 4 P. M. pupils becoming sensible, complains of giddiness and pain in his arm. From this time he continued to improve; he suffered some what from head ache giddiness, and inclination to sleep, but the symptoms soon gave way to mercurial purgatives. The wounds in the hand were followed by extensive swelling and sloughing of the integuments, but ultimately did well, and the man was in a fit state to proceed to his home on the 31st of August. The accident in this case took place under circumstances, which would seem to place the particular nature of the reptile beyond the possibility of doubt.

The subject of Mr. Login's memorandum was a woman who was found dead in the lines of a native Regt., under circumstances that seemmed to call for a medico-legal examination of the body. As far as could be ascertained, the poor woman had been exposed to coasiderable mental distress and anxiety for some time before death, and in addition to this she had been subject to occasional attacks of severe abdominal pain, generally referred to the right hypogastric and inguinal regions. During the last three or four days these paroxysms of pain had been accompanied by attacks of syncope, on the subsidence of which she was able to resume her usual occupations; on the day on which she died, these symptoms were said to have recurred with unusual violence. Externally there were no marks of violence, and with the exception of slight serous effusion within the cranium and some old pleuritic adhesions, no morbid appearances were observed, either in the head or in the thoraic cavity. On laying open the abdomen the seat of the disease was at once apparent. A large coagulum of blood covered the whole of the anterior surface of the intestines. On removing this, the source of the hemorrhage was discovered, in what appeared at first to be the uterus, but which on closer examination provid to be a collopsed sac, having no communication with the cavity or that viscus, but with the right Fallopian tube, the uterine extremity of which was obstructed. The tunics of the sac adhered anteriorly to the abdominal parietes, over a small extent; while on the posterior aspect, a fissure of about two inches in length, exposed to view the ruptured membranes, which had contained a fœtus, of about ten weeks old, subsequently found among the coagula in the cavity of the pelvis. The uterus was enlarged to the usual dimensions, in the second month of pregnancy having its cavity lined with a *membrana decidua*.

Mr. Gordon's case of abscess of the liver occurred in a gunner of artillery, 30 years of age. The man was admitted into hospital on the 2d of February complaining of severe pain of right side increased on pressure, coughing, or turning in bed. He had no fever, the pulse was moderate and tongue clean. He had been discharged on the 26th of the previous month, cured of an attack of acute hepatitis. He was ordered mercurial purgatives internally, and leeches and fomentations to the side; on the 25th the palm was not better, and he was bled to sixteen ounces. This diminished the pain; but a degree of fulness, redness, and tenderness of the side become manifest. Mercurial altiratives with an occasional dose of house medicine were continued. On the 3d of March the pain was

still severe on moving, the redness had extended, and fluctuation was perceptible, there was no fever or thirst. A caustic issue was inserted. On the 5th the slough had separated, and there was a copious discharge of red serum mixed with pieces of thick pus. On the 10th the sore had an unhealthy appearance, the inflammation was extending around it, the discharge was more copious, thin, and reddish, and contained pieces of coagulated blood, and a little pus. A charcoal poultice and nitric acid lotion were applied locally. On the 16th the sloughing continued to spread, two of the leech bites had ulcerated, and the discharge was much as before, but attended with great fetor. On the 24th sloughing continued, the dischrge was as before, and the patent began to be wasted by hectic fever. These symptoms continued to increase, and the patent died on the 4th of April. On dissection the body appeared a good deal emaciated; the opening opposite the 7th and 8th ribs, at their cartilages, was about 2 inches in diameter, with the liver appearing at the bottom of it. The gangrene was about four inches and a half in diameter, extending upwards on the ribs. The cellular substance underneath was infiltrated with pus, and a pouch or bag which would have contained the hand was formed by the adhesion of the liver to the draphragm. The upper surface of the right lobe was ulcerated superficially, for a space of about two inches, and there was an infiltration of pus into a small portion of its edge. The liver was otherwise healthy; perhaps rather pale and hard. The pericardium was distended with serum and the whole of it whitish, thickened, and exhibiting traces of coagulable lymph on its surface.

The above would appear to have a considerable affinity to those cases recorded by Mr. Hawkins in vol. 18, part 1 of the transactions of the Medico-Chirurgical Society of London.

JAS. HUTCHINSON,
Secretary to the Society.

Benyal Hurkaru, October 23.]

THE REVEREND JOSEPH WOLF AND MR. W. ADAM.

The *Athenæum* for May in reviewing Mr. Wolff's recently published *Missionary Researches*, has brought to our notice some observations of that eccentric individual on a respected member of this community which we republish here, together with the remarks of our London contemporary. It is to be regretted that the latter at the time he inflicted so severe a rebuke upon our quondam visitor, was unacquainted with Mr. Adam's position under the late and present Government of India.

'His excellency the Rev. Mullah Joseph Wolff, drank wine with the great Runjeet Sing; rode on elephants; fed on sweetmeants; was honoured with salutes of fifty guns; received, at once, from the King of Onde, a present of 10 000 rupees, or 1000*l* sterling; while the various gifts of Runjeet Sing must have amounted to a least an equal sum. Never in short, was missionary treated with so much attention by many; with so much indulgence by all. Would that his spirit had imbibed the kindliness of those who fed and fostered him! What avails it, that he sums up the fruits of his journey with rhetorical parade at the end of his volume, in *three and twenty results*? Would it not have been more in accordance with the spirit of his mission if he could have declared that his intercourse with mankind had continuually rendered him more and more humane, and that his heart had become penetrated with the charity which he preached. But that he could not truly say so is evident from the following extract:—

"William Adam was formerly a Baptist Missionary: he entered into a religious discussion about the Divinity of Jesus Christ, with the celebrated Ramohun Roy, and was defeated by him; and William Adam (shudder, my friends,) forsook Christ, and forsook his mission, and declared himself to be a Unitarian; but from that time he soon became weary of speaking either about Trinity or Unity; he has become a pitiful writer of a newspaper of the most violent infidel principles, in which the affairs of the world, the lusts of the flesh, and the eyes, and the ears eulogised. He, who formerly treated about godly things, treats now with delight about ungodly things. He is now without God in the world, and his very visage is a picture of unhappiness!"

'What! does a renegade Jew scoff at changes of opinion? Does the Rev. Joseph Wolff forget that he is himself a conscientious apostate, and that he has made a much greater stride than that from the Trinitarian to the conterminous Unitarian creed? Is it not enough to blight the happiness of any man to have once experienced the virulent intolerance of a religious community from whom he conscientiously dissents, and the hatred of devotees, who, while they comport themselves like Cherubim and Seraphim towards one another, are arpies to all the world besides? Mr. Wolff is, we must willingly believe, a sincere Christian, but he is also an eccentric theologian and cannot prudently invoke against others the narrow-minded higotry to which he himself is obnoxious. Let him reflect that he labours in the vineyard in the manner which is most gratifying to his taste; that he does not preach the Gospel so much as trumpet himself; and that his steps, though albeit at times adventurous, are still guided by the wisdom of the children of this world. Let him then not be elated, but often ponder over that weakness of the flesh, the consciousness of which inspired him while he wrote as follows;

"As this journal is written chiefly for the edification of the Church, I trust to be excused in occasionally pouring out my soul and telling them, that during my missionary wanderings I frequently, very frequently, felt the need of being supported by an increase of divine grace, in order that I might not fall into vain glory and self conceit whilst the flight of the spirit carried me from Malta to the Oxus,—*Oriental Observer, October* 17.

THE MASTER'S OFFICE.

The Supreme Court Term commences on Friday and we learn, that a great deal of business is set down on the various boards; indeed, the learned Judges, in anticipation of a press of business, have announced their intention of proceeding with the cases, which stood over for rehearing before a full bench, in the order in which they stand on the board, immediately after the motions of course have been heard, on the 1st day of Term,—a proceeding altogether unusual; the ordinary course being to meet late, and to take merely motions on that day. We confess, we like the principle apparently involved in this resolution of the Judges. They appear determined to make sacrifices for the dispatch of business; and when we look to the results of their labours during the vacation, we cannot but conclude, that the doctrine of cheap and speedy justice is about to be realized in the practice of the Supreme Court.

The labours we allude to, are in the shape of some 60 or 70 new rules for the regulation of the Master's office, the Accountant General's office, and rules for the guidance of receivers and guardians. The greater portion of these rules relate to the Master's office. They are framed principally on the rules promulgated by Lord Chancellor Lyndhurst, and on the suggestions of the report of the law commissioners at home,—adapted, of course, to the peculiarities of the practice here. They have one leading, and, in our eyes, very attractive feature,—they consolidate a number of rules on points of practice, simplify proceedings, and *greatly diminish expense*. As the new rules are now in the hands of the legal profession here, for such comment or suggestion as may occur to the experienced practitioners or to the codifiers, (if such there be in that learned body,) we presume they are not to be considered as finally promulgated, and the provisions embodied in them may, perhaps, undergo some trifling alterations; any particular notice of them would, therefore, under these circumstances, be premature on our part. Before we quit the subject, however, we cannot help offering a word or two on the appointment of Master. Much discredit has of late clung most pertinaciously to that office, in consequence, we can but believe, of the peculiar mode of transacting business adopted by the late Master. The faults—and they must have been very great—were of such a nature as to render the office a positive nuisance, and, at the same time, almost a nullity:—dilatoriness beyond even the limits of the 'law's delay,' 'some insolence of office too, and unnecessary expenses;—a career of inefficiency closed by leaving the office in a most. Augean state of confusion worse confounded. Such was the state of things at the conclusion of Mr. Money's mastership. The present Master succeeded, and a new order of things commenced. All that had been wrong, and could be, *was* set right. The business of the office now flows in a smooth and equable channel, and both suitors and practitioners are satisfied. This is as it should be, and only shews that in the Master's office the *head* only is the thing to be looked to. Under Mr. Money all went wrong,—under Mr. Dickens all goes right; and yet are the persons employed, the same we believe, to a man. No position of the blame, therefore, which certainly did attach to the office under the late Master, can be laid to their charge,—the late Master must bear it all. He was, no doubt, embarrassed with a system laid down by some of his predecessors who were as egregious incapables as he himself; and that system, we are happy to say, is knocked on the head by the new rules. The Master is, in point of fact, the fourth judge of the Court, and as far as importance of the functions entrusted to him, certainly inferior to not one of the others. We sincerely hope that the public will not again be exposed to the evils which experience has shewn to be the certain consequence of the appointment being filled by an inefficient Master. He ought to be a lawyer to whom the whole profession can look up,—*Englishman,—The Calcutta Courier, October* 21.

BRIEF REMARKS ON COL. VANS KENNEDY'S TREATISE ON THE PRINCIPLES AND PRACTICE OF MILITARY LAW.

TO THE EDITOR OF THE EAST INDIAN UNITED SERVICE JOURNAL.

MR. EDITOR,—I have perused with some attention the 'Treatise on the Principles and Practice of Military Law,' by Lieut. Col. Vans Kennedy, late Judge Advocate General of the Bombay army; and as I cannot but think many of the opinions and doctrines therein promulgated erroneous, I should wish through the medium of the *East Indian United Service Journal* to offer some few brief remarks thereon. I take this opportunity of offering some few observations also on the articles of War and Military Jurisprudence generally. I had contemplated a full discussion of them; but I find my health unequal to the task, and I am reluctantly obliged to abandon it. The subject is one of such vast importance, and affords such an ample field for observation in the imperfect knowledge and practice so frequently displayed, that I am almost ashamed to offer such few and brief remarks where so much notice is demanded; but the partial opinion of my friends has led me to believe that some benefit many accrue even from these; should you be of the same opinion, you will, perhaps give them a place in your useful journal;—they may have this good effect, if no other, of inducing some one with better health, temper, and talents to take up the subject.*

Yours obediently,
F. BUCKLEY.

At page 20, Lieut. Col. Vans Kennedy says, 'in case a member should, during the trial, be prevented from attending the court for any period while proceedings were carried on, he cannot resume his seat on the impediment being removed;' yet, in the very next paragraph, he says, in speaking of the steps to be taken when a Court Martial is reduced below the legal number of members: 'in the latter case it is perfectly legal to dissolve the court and to immediately reassemble another one of which the remaining members of the former court may form part: the court is then constituted in the usual manner *de novo*; but if the parties consent, it is only requisite to call in each witness that has been examined, and after he has been re-sworn, to read over to him the evidence which he has given in order, that the new members may be satisfied that it is his testimony, and that they may have the opportunity of putting any questions to the witness they may think necessary.'

I cannot see the necessity or propriety of the proceeding here laid down, as it involves much delay in referring to the authority which assembled the court, ordering the new members, and also loss of time by going over the whole of the trial anew. It appears to me, that the new members thus appointed would stand in the same relative situation with those occasionally absent, and that it would be perfectly sufficient in the case of the latter, to adopt the procedure laid down of calling in any witness who had given testimony during the absence of a member, and thus giving the opportunity of putting any further questions to him, that such member should deem requisite. To *reassemble* another one, is a mere casual oversight in writing. I think it still a doubtful point, according to strict law, if a prisoner can be arraigned again upon the same charges, should the members of a court martial by any accident, when about to pass sentence, be reduced below the legal number required by law: my reasons for this doubt are stated in another part. I consider Lieut. Col. Vans Kennedy's remarks and reasoning utterly confused, contradictory, and erroneous. After quoting Sir Charles Morgan's observations and opinion against the president's exercising a casting vote where the opinions are even, and stating that *such practice is not countenanced at the Horse Guards*, Colonel Vans Kennedy goes on to say 'directly contrary to this is the practice of courts-martial held in the army of India, and it is believed of such as are held in his majesty's forces every where except at the Horse Guards; for at them, in conformity to the opinion of Tytler, the president has always a casting vote when the court is equally divided.' This is in direct opposition to Sir C. Morgan's assertion, that such is *not* the practice, and in contradiction of himself, where he says, 'it must be admitted that the practice of the Horse Guards may *prima facie*, appear the most legal, because it conforms to that of the Courts of King's Bench and Common Pleas.'

Lieut. Col. Vans Kennedy, in the first place says, by his exception, that it is not the practice at the Horse Guards; again he says, 'in comformity to the opinion of Tytler, it *is* the practice at the Horse Guards;' again he admits that it is *not* the practice, and that the practice at the Horse Guards, as stated by Sir C. Morgan, may, *prima facie*, appear the most legal. This appears to me utter confusion and contradiction.

Lieut. Col. Vans Kennedy, at page 26, in support of his opinion that a president should have a casting vote, suppose that an officer is found guilty 'of highly disgraceful conduct, unbecoming an officer and a gentleman,' and that on awarding punishment, an equal number of the members vote for cashiering, and an equal number for reduction of rank, and that in consequence of the equality of votes, no sentence can be passed; and the officer thus returns to his regiment, and the functions of his commission divested of the character of an officer and a gentleman. Colonel Vans Kennedy appears to me wrong in every sense of such opinion: in the first place, I believe a court finding guilty of such a charge is confined to one sentence—'cashiering;' however, as I write from memory, and have not the Articles of War by me, I may be wrong in the exact words. Such, I am certain, is its spirit and essence:—it is the conduct unbecoming an officer and a gentleman that is considered deserving of this punishment; but this is not meterial to my argument and opinion that a president has not, and ought not, to have a casting vote, or that his not having it, involves any of the injurious consequences or absurdities Colonel Vans Kennedy attributes to it. The common law of the land, upon which the military is founded, declares, that in all cases involving a doubt, mercy shall turn the scale in favour of the prisoner. Now the cases supposed by Colonel Vans Kennedy do involve a doubt,—a doubt as to the degree of punishment appropriate to the offence of which the prisoner has been found guilty; it is, therefore, in accordance not only with the dictates of the law, but what is of higher import, those of justice and reason, that the mildest punishnent should constitute the sentence of a court so divided; and I maintain that in such case reduction of rank becomes the sentence of the court instead of the absurdity of not passing any sentence. Does it not appear strange, that any man who professes to have studied the law, and who is gifted with but the commonest reasoning faculties, should maintain so absurd a doctrine as that the whole court having found a prisoner guilty; because their opinions were even as to the quantum of punishment, should be reduced to this ridiculous dilemma, when the remedy is so obvious! Colonel Vans Kennedy observes, 'that great inconvenience must arise upon any legal point of discussion when the votes are even: this does not necessarily follow, and no such inconvenience ought to arise. The court have a legal adviser, the Judge Advocate, who ought to have a sufficient knowledge of the law of the case to direct them; but should they dissent from his opinion, or should his knowledge not extend thus far, the same principle as before laid down should guide their decision, if they cannot have recourse to that of the law officer of the Crown; and it must be borne in mind that every prisoner has his remedy of law against any injury sustained from the illegal proceeding or sentence of a court martial. Colonel Vans Kennedy says at page 28, 'This reasoning applies to the punishment only, for the acquittal of a prisoner, where the court was equally divided in determining upon its verdict, might not seem inequitable. Here he is again in error: the same rule of equity which guides them as to guilt or innocence is equally applicable to the measure of punishment; Thus, if seven vote for dismissal and seven for suspension, the latter should be the sentence,—this equality of opinion, constituting a doubt as to the quantum of punishment applicable to the offence. There is not the shadow of a reason for giving to the senior member, (for the president is, in fact, no more) a double voice; nor does the law direct such inequality of weight to be given to the opinion of a member, because he is the oldest; and where the law is silent we must be guided by the dictates of equity. The opinions of the members are entitled to equal weight. It may happen that the seven senior members of the court, with exception to the president, vote for suspension, and the six junior and president for dismissal. Here then the weight of experience and seniority is in favour of the milder punishment; yet the double vote of the president shall turn the scale against the prisoner. Better, far better than such injustice, would it be to have recourse to chance to decide which should be the sentence; but until human intellect shall so far retrograde, as to render us incapable of distinguishing right from wrong,—far be it from me to advocate such a procedure.

Col. Vans Kennedy says, 'it is the practice of courts martial held in the army of India, to give the president a casting vote;' if such be the case, it is a practice 'more honored in the breach than the observance;' but I must beg leave to differ with him in this opinion. It is true we have witnessed one Commander in Chief, either in ignorance or contempt of the best legal opinion by which his own service is guided (that of Sir C. Morgan,) lay down such rule for the guidance of courts martial; but we are no more bound by this absurdity and illegality, than we are by those exhibited by some of the proceedings, findings, and sentences of courts martial in this country. We have seen one refuse to proceed with a prosecution and dismiss a prisoner, because the person who framed the charges was not (though he was on the spot, and within the jurisdiction of the court as an evidence had they considered his presence necessary,) actually in court to prosecute the charges; another direct a member to withdraw, when about to pass sentence, because the numbers were even. One, sentence an officer to a trifling suspension for being drunk on duty; another, dismiss an officer for a less culpable offence, being found by the police in a state of intoxication when not on duty. One by its opinion, promulgating the doctrine, that a proved, positive, and direct disobedience of General Orders, (the legality of which they cannot question,) involves no culpability; another refusing to investigate a charge, the penalty on conviction of which is dismissal, and taking upon themselves without investigation to pronounce upon the propriety of a charge sent by the Commander-in-Chief with the assistance of his legal adviser, the Judge Advocate General. Such are a few of the absurdities and illegalities of courts martial in this country; but will any one say they ought to be our guide?—in so far, indeed, they may,—they will form a beacon to guide us in our avoidance. At pages 29 and 30, Colonel Vans Kennedy seems at one time inclined to admit the present practice and understanding that a president cannot be challenged, where he says, 'the Judge Advocate reads over the names of the *members* to the prisoner,' 'and asks him &c;' yet subsequently shews in what *manner* a president is *to be challenged*. This manner is in no way different from that regarding a member. He makes the *result* different: in one case the court decide upon the validity of the challenge; in the other, they separate, and the objection is referred for decision to the authority which assembled the court. It is generally understood, and the practice is that a president cannot be challenged; but this opinion and practice rest not upon the solid basis of justice, but are advocated upon the grounds of the inconvenience and delay, that must take place were the contrary allowed. These grounds I cannot think sufficient to warrant the chance of a pollution of the source of justice. The objections Colonel Vans Kennedy acknowledges as valid against a member; viz.

1st.—The expression of an opinion relative to the subject to be investigated.

2d.—The having been a member of a Court of Inquiry in the same subject, which had given an opinion.

3d.—The having been a member of a General Court Martial in which the circumstances about to be investigated, had been discussed, either, principally, collaterally, or incidentally.

4th.—Suspicion of prejudice and malice.

Now there is not one of these causes of challenge, that may not apply with the same force to a president as to a member of the court: the inference is obvious; but there is one other reason which adds strength to my opinion, that a president should be liable to challenge, upon cause shown, equally with a member. It *may* be that a Commander-in-Chief himself may be prejudiced against the person about to be tried, and he *may* select a president whose known or expressed opinions on the subject about to be brought before the Court, leave no room to doubt how his opinion will be given, and thus ensure the influence of a president's opinion against a prisoner. The law is meant to guard as much as possible against the injustice that *may* be committed from the fallability of human nature; and who will say that a Commander-in-Chief is infallible?

It may be, that the president is the only person of the Court open to challenge from the afore-mentioned causes; yet what would be a sufficient objection to a member, a prisoner is not allowed to urge against the most influential person (generally speaking) composing the Court. It is well known that in the course of discussion during a trial, the opinion of the president may be guessed, and as he is the oldest officer, there are often some of the members who may be influenced by his, and give their votes accordingly. With regard to the third cause of challenge, I do not think it ought to be held valid, or no two prisoners could be tried by the same Court for similar offences; and no member of a Court could ever a second time sit upon a trial involving the same circumstantial offence as he had before given his opinion upon. In the cause of challenge Colonel Vans Kennedy states, he cannot mean his objection to apply to the same individual, because he cannot be tried twice for the same offence; it must, therefore, be the same circumstances against a different individual; yet we know that two prisoners may be tried at the same time, by the same court, for the same offence.

Page 35,—'And the concequence is, that charges are almost always submitted to investigation with all their imperfections on their head.' Colonel Vans Kennedy in speaking of General Courts Martial; if, therefore such be the case, it bespeaks a degree of remissness in the Commander-in-Chief, or the person who allows such charges to go before a court martial, and a very high degree either of incapacity or neglect in the Judge Advocate General, whose duty it is to scrutinize, and, if necessary, to correct them. No court martial has, or ought to have, the power (as we have lately witnessed) of refusing to examine into any charge submitted to

* We are obliged to Major Buckley for the trouble he has taken. He will be glad to hear that a complete review of Colonel K.'s work is preparing by an officer, whose health and talents will enable him to do full justice to the subject.—ED.

it, that is plainly a military crime, and cognizable by the court. It is competent to a court to declare such charge frivolous, but this must be *after* examination into it, and not without any examination. Such a power would have a very dangerous tendency, and is liable to great abuse. We have lately seen a court martial (even after the proof was before them.) declare there was no criminality attached to repeated disobedience of a legal order issued by Government and the Commander-in-Chief; thus taking upon itself the unheard-of, and unwarrantable, authority of pronouncing upon the exercise of their judgment. As well might it take upon itself to disobey the specific mandate of an article of war, and say, no such article should have been enacted; that it was foolish and unjust; and that its breach implied no criminality. It is sufficiently established that the court must exhaust the whole of the charges. The instance herein referred to shews the benefit of public discussion, and the propriety of the practice lately introduced in the civil administration of promulgating acts intended to be carried into operation, ere they are actually made into a law. It is, indeed, a strange anomaly to see those, whose duty it is to carry the law into effect, declare, that they will not do so, from the law being, in their opinion, ridiculous or unjust in its intent; and that those who do this, can only be punished by the censure of the Court, or Commander-in-Chief,—so disproportioned to so grave an offence. In such cases as here alluded to, I consider it to be the bounden duty of a court, in finding the fact, to find the criminality such fact implies, and award the punishment; at the same time urging upon the attention of superior authority their belief and opinion, that the prisoner, in disobeying the order, did so, not from disregard to authority, but from a firm belief, (in accordance with their own,) that he was therein better furthering the interests of the service, and the state; and leave it to this superior authority to judge of the propriety or benefit of the exercise of this discretion in the offender, and the degree of criminality such involves. This would be a much more appropriate and respectful manner of exhibiting their dissent to the expediency of a regulation, and more likely to have the effect of bringing this expediency under discussion. The other is only calculated to attract consideration as to the means of forcing them to carry into execution the penalties of an inappropriate regulation.

Page 53, &c.—The better method of proceeding is merely to ask the prisoner if he acknowledges himself to be correctly designated in the charges and on his answering in the affirmative, proceed to trial. Colonel Vans Kennedy says, 'but should the latter plea (guilty) be pleaded at a Court Martial it is laid down in the Regulations and Orders for the Army, page 202, that in every case in which a *prisoner pleads guilty*, it is the duty of the court martial, notwithstanding, to receive and report in their proceedings, such evidence as may afford *full knowledge of the circumstance*; * it being essential that the facts and particulars should be known to those whose duty it is to report on the case, or who have discretion in carrying the sentence into effect. On the prisoner, therefore, pleading guilty, the prosecutor adduces his evidence in support of the charge, and the prisoner may cross-examine the prosecutor's witness; but he cannot, of course make any defnce.' This doctrine and the regulations and orders quoted, I hold to be objectionable and imperfect. How is a *full* knowledge of the circumstances (said to be requisite) to be obtained by an examination of one side only? And again, the examination of the whole of the evidence in support of the accusation, without any thing being allowed to be urged in extenuation, or witnesses examined for this purpose, may make the guilt of the prisoner appear greater than it really is or is set forth in the charge; and although we know that a Court Martial is restricted from finding a greater degree of criminality than is laid in the charge this proceeding is but too strongly calculated to influence them in awarding the measure of punishment. It has also a tendency to influence those who have to report upon the case, and him who is to give efficacy to the sentence by his confirmation.

At page 40 and 41, Lieut. Col. Vans Kennedy quotes Chitty's Criminal Law, showing that time is not important; thus—'though the allegation of a specific time is thus important, it is in no case necessary to prove the precise day or even year laid in the indictment, except when the time enters into the offence.' He then goes on to say, 'for instance, if a prisoner be charged with having written a disrespectful letter to his commanding officer on the 26th of the month, and the letter produced in support of the charge is found to be dated on the 27th, being then a variance in fact and not in time only, such variance most prove fatal to the charge, and the prisoner must be acquitted; but in this case the prisoner may be tried again on another charge, wherein the offence is set forth on the true date on whiah it actually occurred.' At page 56, Lieutenant Colonel Vans Kennedy in speaking of the bar of trial, says, 'thus as to the point of time, if he be indicted for a murder on a certain day and acquitted, and he afterwards be charged with killing the same person on a different day, he may plead his former acquittal notwithstanding the difference, for the day is not material.' Lieut. Col. Vans Kennedy is by no means happy in this illustration: we must suppose he means to say, if it should turn out that the prisoner killed the person on the 27th when the indictment charged him with doing so on the 26th of the month; for we can hardly suppose he means to say that because the crime was not perpetrated when first attempted, and that on an after attempt which was successful, the prisoner could not be tried for it. We must, therefore, bring the cases to the same point, and we shall find the varience in time and fact to be the same in both cases: thus, if a man be tried for writing a disrespectful letter to his commanding officer on the 26th of the month, and it is proved this letter was written on the 26th he must be acquitted, but may be tried again charged with doing the same thing on the 27th. Yet, he says, if a man be tried for murdering a man on the 26th of the month, and it should be proved he murdered him on the 27th, he must be acquitted, and, cannot be tried again for murdering the man on the 27th,—his acquittal would be a bar to a new trial, for it would be absurd to suppose that by varying the day, the place, or any other allegation, the precise accuracy of which is not material, the prosecutor would change the rights of the defendant, and subject him to a second trial.' I must confess I am not casuist enough to discover any difference in the two cases Lieut.-Colonel Vans Kennedy has stated with the exception of the magnitude of the offence and I maintain that the same rule ought to apply to both, and the prisoner ought to be tried again, but it shews the impropriety of particularizing the time: had the charge or indictment been thus worded 'on or about,' no inconvenience could arise, and the ends of justice could not be thus defeated.

Page 91.—On the examination of absent witnesses.

No cause but illness ought to be considered sufficient for the non-attendance of a witness whose evidence is considered essential either for the prosecution or defence. In the case of illness the whole Court (should the case be so urgent) should adjourn to the residence of the witness; or entirely, until he is able to attend. The examination of a witness *de bene esse*, is essentially deficient, in as much as the manner in which a witness gives his testimony is sometimes calculated to make a greater impression on the Court than even the testimony itself. A witness sometimes shews great reluctance to reply to certain questions put to him; the nature of his reply and *manner altogether* will sometimes shew an inclination to conceal what he knows. And again, it sometimes shews a too greatt eagerness to give his testimony, and a determination to speak as favourably as possible, or the reverse, on the points proposed to him; thus rendering his testimony suspicious; and the Court have not the proper opportunity of judging of the credibility of a *de bene esse* testimony, which they would have by a *vivâ vocé* examination. It is not the mere words which a witness utters which always carry the weight of evidence with them,—there is frequently a great deal in the *manner and desposition* which a witness betrays, that adds to, or detracts from, his credibility. And again, the answer to one question elicits the necessity of another, and thus his examination may take up more time than would be required to bring him to give a *vivâ vocé* testimony. Whenever this method is had recourse to, the person taking his evidence should be instructed to note any thing particular in the *manner* in which he gives his replies, but even this is very imperfect and liable to error, for what may appear reluctance, or eagerness, to one individual, might not have been so interpreted by the court who are the sole judges of the credibility of the testimony. The insufficiency of the *de bene esse* evidence is fully established at pages 142 and 3, in the quotation from Starkie's Law of Evidence, and it should be had recourse to, unless there is a danger of the person by death being precluded from giving his *vivâ vocé* testimony —*U. S. Journal for October.*

(*To be continued.*)

* These italics are mine, to draw the attention and recollection to the *full* knowledge required.

DELHI.

We now hear, and *believe*, that the instigation of the attack upon Major Alves on the 4th June last, has been most fully brought home to the *ringleaders*, against whom suspicion attached, in the opinion of the Major, from the very commencement—so that, we fear, we have been doing injustice to Major Alves, who, it would seem, has been on the right scent from the very beginning—but want of space prevents our saying more this week.—*Delhi Gazette, Oct.* 21.

CAPE.

CAPE OF GOOD HOPE; FATE OF LIEUT. BAILIE AND HIS PARTY.

FATE OF LIEUT. BAILIE AND HIS PARTY.—Gea[a] informed me this morning, that on the morning of the 28th, Lieut. C. Bailie and his brave party had penetrated to the Gaala, and, as they had been narrowly watched the day before, and their number ascertained, it was determined to attack him. The "fight" commenced early in the morning, and on his gaining the high ground above Perris, he lost sight of his men. By this time the Caffers were in great force, and the fight was maintained for some time by Lieut. Bailie and his party, who had nearly got down the hill, within 500 yards of the drift over the first ravine east of Perrie, when the Caffers closed in on them, and all fell in one heap,—"where," said old Ganyaa, "you will find their bones."

Firing was heard by us at Fort Beresford, in this direction the same day, but we had no idea the cauuse was so fatal to our countrymen.

We have inserted the above remarks as we received them from our correspondent on the spot; but we have reason to know that his conclusion, though correct as far as they go, are nevertheless drawn from partial information, hence without other particulars or explanations, they are calculated to make rather an erroneous impression on the public mind, inasmuch as they leasd to the conclusion, that the proposal for a cessation of hostilities was made in the *first* instance by His Excellency the Governor, than which no procedure could be more dangerous, and consequently unsatisfactory.

Luckily we are enabled to throw considerable light on the subject, by the publications of the official documents, detailing the proceedings of Major Cox and Captain Alexander; and we likewise have the best grounds for believing from other sources of information in that the enemy were so far subdued at the time of the armistice, as to manifest the greatest readiness and anxiety to accept the terms which have been so benevolently offered to them by his Excellency. We are no advocates for war, but still we had rather maintain our hostile position than on a principle of falce benevolence to trump up suddenly a hollow and unsubtaintial peace.

Postscript. (Friday Morning) Brigade-Major Warden and Captain Alexander returned to town last night from their mission to the hostile chief. From all that has transpired on the subject, it appears they are the bearers of a request on the part of the chief, refering to some point in the terms proposed to them, and which are now under the Governor's consideration. We learn that at the conference there were at least 4,000 Caffer warriors assembled among whom were about 200 mounted and armed with guns, and about the same number on foot with the same weapon. Their demeanor throughout was, it is said highly becoming; and their military array respectable and imposing. It is affirmed that they are highly pleased at the prospect of becoming the subjects of the King of England, and appear extremely anxious, having been severe sufferers for the final termination of the present warfare.

The negotiation will, it is said, be resumed immediately.

AUSTRALIA.

VAN DIEMAN'S LAND. LIBEL ON THE GOVERNOR.

The following remarks, which we take from the *Courier*, fell from the Chief Justice on the trial of Mr. ROBERTSON. They will be found to contain some very clever thoughts; though as we expect from an English Judge with all the technicalities of the libel law before him, we see too much uplifting of the hands at the simple fact of charging so great a personage as the Lieutenant-Governor with larceny,—the better cause of indignation being that such a grave imputation should be made falsely and maliciously. The likening a rabid newspaper to the guillotine is very felicitous. We shall store up the simile. What follows fell from the Chief Justice, when passing sentence on Mr. ROBERTSON—

"You set yourself up as a self-elected commentator upon the conduct of public officers, and how do you do it? You establish a system of terror! I do not know what to compare your paper to, it is an engine which I can only compare to that fearful one used in other times in another country, the guillotine, and for the same avowed purpose that the persons who used that engine did so, being as they said because they thought it the only means of entirely eradicating the then existing government, by the decapitation of the men who framed and upheld it, while you by your engine—your guillotine, endeavour to rob men of their characters; and there are many persons who would as soon lose their property and their lives as their character, and some who would sooner. I am astounded when I consider your writings, as I discover from one of your own papers that you plainly foresaw the consequence of such writings. I have the passage before me, though I do not think fit to read it *but you well recollect it*"—here Mr. Robertson said he did not know the passage his Honour alluded to, and his Honour read it, and continued to say that that passage fully shewed that Mr. Robertson was well aware, nay contemplated, that his writings would disturb and destroy the peace and happiness of society, and that it was with that intention they were written.

"In the libel with which you are first charged you accuse a gentleman holding high rank as an officer of the army, and entrusted by his King with the government of the society in which you live—a personage whom every moral and religious feeling should have prevented you from libelling. You accuse the Governor of forgery if the article means any thing. And, in the second libel, you accuse the Governor of having written a letter to protect his own nephew from the consequences of the crime of larceny, which you endeavour to show he would have been subject to had not that letter been written. In the last case you accuse the Governor (I am horrified to use the term) of larceny. I make these observations upon the several libels to account to the public for the sentence which I shall pass being so light, as the law officers, for what reason I know not, have not charged you in the first information, as they might have done, with accusing the Governor of forgery, but merely of accusing the Governor of dishonourable and unworthy conduct; and so in the second, you are not charged with accusing the Governor of larceny, but that is also more lightly charged.

"And now I most sincerely trust, that at the expiration of the sentence of imprisonment which I shall pass upon you, you will entertain far different views of the duties of a public writer from those which you say you now entertain although I can hardly believe with the abilities which you have shewn yourself to possess, you can seriously entertain such.

"With regard to the third information, the libel on Mr. Rowlands, I shall merely say, that I think the verdict is a most correct one; but I must at the same time observe, that I think that it is to be regretted that that case was brought forward at the same time with the others, which are so infinitely more important.

"For the libel of which you were first found guilty, I sentence you to pay a fine to the King of sixty pounds, and be imprisoned in His Majesty's gaol at Hobart Town for four calendar months, and that you be further imprisoned until the fine be paid.

"For the second libel, I sentence you to pay a fine to the King of one hundred and twenty pounds, and to be imprisoned in His Majesty's goal at Hobart Town for eight calender Months, to commence from the expiration of the last sentence, and that you be further imprisoned until that fine be paid; and for the third libel (on Mr. Rowlands) I sentence you to pay a fine to the King of twenty pounds, and to be imprisoned one month."

Here Mr. Robertson wished to address the Court but His Honour left the bench and said all further communication from the defendant must be addressed to the Lieutenant Governor, —*Launceston Advertiser, March* 9.

EUROPE.

LORD BROUGHAM'S DISCOURSE OF NATURAL THEOLOGY.

Its origin, and what the author intended to be its nature, are thus stated by himself.

"The composition of this Discourse was undertaken in consequence of an observation which I had often made, that scientific men were apt to regard the study of Natural Religion as little connected with philosophical pursuits. Many of the persons to whom I allude were men of religious habits of thinking; others were free from any disposition towards scepticism, rather because they had not much discussed the subject, than because they had formed fixed opinions upon it after inquiry. But the bulk of them relied little upon Natural Theology, which they seemed to regard as a speculation built rather on fancy than on argument; or, at any rate, as a kind of knowledge quite different from either physical or moral science. It therefore appeared to me desirable to define, more precisely than had yet been done, the place and the claims of Natural Theology among the various branches of human knowledge. * * * *

"This Discourse is not a treatise of Natural Theology: it has not for its design an exposition of the doctrines whereof Natural Theology consists. But its object is, first, to explain the nature of the evidence upon which it rests; to show that it is a science, the truths of which are discovered by induction, like the truths of Natural and Moral Philosophy; that it is a branch of science partaking of the nature of each of those great divisions of human knowledge, and not merely, closely allied to them both: secondly, the object of the Discourse is to explain the advantages attending this study. The work, therefore, is a *logical* one,"

The *object* of the work, as hinted in the preceding extract, is to show that "Natural Theology"—the science of the Deity—is of a similar kind with the physical and mental sciences; resting upon, and being supported by, the same evidence. This position in the earlier parts is often all but expressed in the strictest terms; and the whole tendency of the argument is hitherwards. After long and elaborate arguments, the statement.—however, is thus distinctly made—

"It now appears, that when we said that Natural Theology can no more be distinguished from the physical, psychological and ethical sciences, in respect of the evidence it rests upon and the manner in which its investigations are to be conducted, than the different department of those science can be distinguished from each other in the like respect, we were only making an assertion borne out by a close and rigorous examination of the subject."

The opening passage in these quotations may serve as a specimen of that overstraining and exaggeration on which we have commented; and it is here more inexcusable as affecting the fundimental principle of the work. It appears to us unlikely that "scientific men" should regard Natural Theology "as a speculation built rather on *fancy* than on *argument*." But they might reasonably conclude, on the first blush of the question, that though in finite faculties could perceive the qualities of their own nature and discover the laws which governed matter of a nature inferior to themselves, they would be unable to comprehend infinity. If the question were tested by that "logic" which is represented as giving its character to the *Discourse*, it would be found that Lord BROUGHAM, in the outset of his undertaking, has confounded *truths* with the *evidence* of truths. We have ascertained by experiment the laws of physical science, such as physiology and optics; and our knowledge being derived from the evidence of our senses, the truths of these seiences are to our comprehension final truths. But when we find (as we do in the establishment of these truths), that the means in nature are adopted to the ends, and thence proceed to infer a First Cause, the "most superficial reasoner," as our author has it, must instantly perceive, that in the former case the proof is positive, depending on the evidence of our senses; whilst in the latter—however convincing—it is merely inferential, the known truth being used as a link in inferring the unknown. Could an accomplished lawyer—to use an obvious illustration—be made to comprehend the argument, he would at once perceive that there is as much difference in the evidence on which mental and physical science and Natural Theology rest, as there is between the doer of an overt act, such as murder, and an attempt to prove by inferences from overt acts the motives which led to the murder.

In a common case, the general unsoundness of the foundations would be a valid reason for slighting the structure of a philosophical work. But the present is not a common case. The fame, rank, and position of the author—the length of time the work has been in preparation—the long-drawn flourishes announcing its advent—the time chosen for its appearance, and the conventional pæans with which it has been received—not only require, but demand, a more minute examination.

Premising that the *Discourse* is divided into two parts,—the first of which endeavours, in seven sections, to establish that Philosophy and Natural Theology are identical sciences; whilst in the second part an attempt is made to display the advantages of Natural Theology, and the pleasures which result from its pursuit,—we go on to look into the execution of the *Discourse of Natural Theology*. In doing this, we shall not follow our author step by step through the sections of his first division; in which, after the general view and introduction of his subject, he endeavours to establish his principle by arguments drawn from material, from mental, and from moral science and attempts from the evidence of the latter to prove the immateriality of the mind. He also discusses, and certainly overturns the argument *à priori* opposes; but we think not so successfully, BACON'S doctrine of Final Causes; and lastly, gives an exposition of what he conceives to be the true method of scientific arrangement. To take up every point that would afford matter

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for comment, in a minute examination of such a series of subjects would require a volume larger than the original. Our course will be merely to select, without much regard to method, some of the more glaring instances of loose expression, rash conclusion, and apparent want of mastery in the science the author undertakes to expound.

After a dedication to Earl SPENCER, Lord BROUGHAM commences his task by a definition of Theology; and proceeds, with a pompous parade of scholatic learning, to fix the meaning o his terms, with a rigour which aims at mathematical exactness. Thus, in order to tell us that he shall always use the word *moral* in the sence of *ethical*, that by spiritual or mental he means intellectual as opposed to material, and by the addition of "*active*" he means an exercise of the will apart from mere perception, whilst by *psychological* he intends mental science contradistinguished from ethical—he writes as follows.

"As it is highly desirable to keep scientific language precise, and always to use the same terms in the same sense, we shall now further observe upon the "*moral*" in relation to science or faculties. It is sometimes used to denote the whole of our mental faculties, and in opposition to natural and physical; as when we speak of "*moral science*," "*moral truths*," "*moral philosophy*." But it is also used in contradistinction to "*intellectual*" or "*mental*," and in connexion with or in reference to obligation; and then it relates to rights and duties, and is synonymous with *ethical*. It seems advisable to use it always in this sense, and to employ the words *spiritual* and *mental* in opposition to *natural* and *material*; and *psychological*, as applied to the science of mind, in opposition to *physical*. Again, a distinction is sometimes made between the *intellectual* and *moral* powers or faculties; the former being directly those of the understanding, the latter those of the will, or, as they are often called, the "*active powers*"—that is the passions and feeling. It seems better to use the word *active* for this purpose, as opposed to *intellectual*. Thus we shall have these general terms, *spiritual* or *mental*, as applied to the immaterial part of the creation, and *psychological*, as applied to the science which treats of it. We shall next have a subdivision of the mental faculties into *intellectual* and *active*; both from the subjects of *psychological* science. *Moral* science, in its restricted sense, and properly so called, will then denote that branch which treats of duties, and of what is implied in those duties, their correlative rights; it will, in short, be *ethical* science."

Few who read this will deny that anxious elaboration has led to obscurity; yet scarcely has our noble author closed his laudable attempt to "keep philosophical language precise, than he talks "of *nature*, of the heavenly bodies, of the mind,—a looseness of phraseology which even "a careless inquirer, a superficial reasoner, an imperfect logician," (to borrow the felicitous consecutive expressions of our author) would hardly have committed. The most superficial glance will satisfy any one that nature, in an extended sense, included the whole; and in a popularly limited sense, it would apply to the mental qualities of man with as much propriety as to the material world. The meaning of the author is what we desire to have here expressed: judging from the context and the scope of the argument, he intended, to say, "the heavenly bodies, the material substances of this globe, and the mind of man."

We have spoken of a looseness of statement, and a want of completeness and aptitude in some of the illustrations. The following passage, where the author is speaking of the discoveries of geology and comparative anatomy, will illustrate both of these remarks. A person thoroughly imbued with his matter would not have alluded so generally to BUCKLAND, or talked so vaguely of "some of the caves; "for no one unless acquainted with the Professor's book will know what is meant, and then an allusion were sufficient. In the passage relative to the earlier conditions of the world, the looseness has the effect of untruth. If we have correctly understood geoligists, the order of creation was first, a world "covered with water; then, in succession, reptiles, birds, beasts, and lastly man,—instead of the irregular medley stated below. The laxity in the next period, relating to the beast, gives occasion not only to falsehood, but foolishness. How could beasts like elephants and river-horses exist in a world without plants!

"The discoveries already made in this branch of science are truly wonderful, and they proceed upon the strictest rules of induction. It is shown that animals formerly existed on the globe, being unknown varieties of *species* still known; but it also appears that *species* existed, and even *genera*, wholly unknown for the last five thousand years. These peopled the earth, as it was not before the general deluge, but before some convulsion long prior to that even had overwhelmed the countries then dry and raised others from the bottom of the sea. In these curious inquiries, we are conversant not merely with the world before the flood, but with a world which, before the flood, was covered with water, and which, in far earlier ages, had been the habitation of birds and beasts and reptiles. We are carried as it were, several worlds back; and we reach a period when all was water and slime and mud, and the waste, without either man or plants, gave resting-place to enormous beasts like lions and elephants and river horses, while the water was tenanted by lizards the size of a whale, sixty or seventy feet long, and by others with huge eyes having shields of solid bone to protect them, and glaring from neck ten feet in length, and the air darkened by flying reptiles covered with scales opening the jaws of the crocodile, and expanding wings armed at the tips with the claws of the leopard.

"No less strange, and yet not less proceeding from induction, are the discoveries made respecting the former state of the earth, the manner in which those animals, whether of known or unknown tribes, occupied it; and the period when, or at least the way in which they ceased to exist. Professor Buckland has demonstrated the identity with the hyena's of the animal's habits that cracked the bones which fill some of the caves, in order to come at the marrow; but he has also satisfactorily shown that it inhabited the neighbourhood, and must have been suddenly exterminated by drowning. His researches have been conducted by experiments with living animals, as well as by observation upon the fossil remains."

The object of the allusion to the productions of the antediluvian worlds, is to show that "the kind of evidence used to demonstrate" their existence, does not vary from that on which the science of Theology rests. This is more distinctly argued in the following extract; and never surely was argument so overstrained before. If our knowledge of antediluvian animals does not rest, as Lord BROUGHAM asserts it does not, *on a single particle of evidence by sense or testimony*, on what, in the name of wonder, does it rest? It is only by experience the comparative anatomist learns that animals with a cloven hoof ruminate, and want the collar-bone; that certain teeth indicate herb-living animals; that certain claws and teeth of another kind belong to animals living on flesh; and that their general anatomical structure is indicative of their habits. All this knowledge is clearly acquired by the senses; and without evidence and testimony the possessor cannot stir a step in applying it to geological discovery. The fossil bone is surely an evidence appealing to the senses: it is both visible and tangible. Nay, as the evidence submitted to our senses is more or less complete so is the conclusion of the anatomist. From a hoof, he *infers* rumination; from a jaw-bone with teeth, he *decides* as to the feeding; from both or either, he *gives an opinion* as to size; but he only ventures to *guess* as to form. Extend the evidence submitted to his senses—produce a back-bone and a thigh-bone—he will then decide upon the animal's size: appeal yet further to sense—give him a skeleton without the ribs—he will put it together, and show the general osteological structure; add the ribs—he will give an outline of its form; but he will not decide dogmatically upon its exact appearance, for he wants the further evidence of sense which the muscles, fat, cuticle, and external clothing would supply. And yet these are "things respecting which we have not and cannot have a single particle of evidence either by sense or by testimony!"

"When from examining a few bones, or it may be a single fragment of a bone, we infer that, in the wilds where we found it, there lived and ranged, some thousands of years ago, an animal wholly different from any we ever saw, and from any of which any account, any tradition, written or oral, has reached us, nay, from any that ever was seen by any person of whose existence we ever heard, we assuredly are led to this remote conclusion by a strict and rigorous process of reasoning; but, as certainly, we come through that process to the knowledge and belief of things unseen, both of us and of all men; things respecting which we have not, and cannot have, a single particle of evidence, either by sense or by testimony. Yet we harbour no doubt of the fact: we go further, and not only implicity believe the existence of this creature, for which we are forced to invent a name, but clothe it with attributes, till, reasoning step by step, we come at so accurate a notion of its form and habits, that we can represent the one and describe the other with unerring accuracy; picturing to ourselves how it looked, what it fed on and how it continued its kind.

"Now, the question is this—what perceivable difference is there between the kind of investigations we have just been considering and those of Natural Theology, except, indeed, that the latter are far more sublime in themselves and incomparably more interesting to us? Where is the logical precision of the arrangement which would draw a broad line of demarcation between the two speculations, giving to the one the name and the rank of a science, and refusing it to the other, and affirming that the one rested upon induction, but not the other? We have, it is true, no experience directly of Great Being's existence in whom we believe as our Creator, nor have we the testimony of any man relating such experience of his own. But so, neither we nor any witnesses in any age have ever seen those works of that Being, the lost animals that once peopled the earth; and yet the lights of inductive science have conducted us to a full knowledge of their nature, as well as a perfect belief in their existence. Without any evidence from our senses, or from the testimony of eye-witnesses, we believe in the existence and qualities of those animals, because we infer by the induction of facts that they once lived and were endowed with a certain nature.'

Leaving the proofs of the question drawn from matter, Lord BROUGHAM proceeds to consider those which may be adduced from the constitution of the human mind. In doing this, he claims for himself an originality to the praise of which he is not so well entitled as he seems to think. He also appears covertly to aim at depreciating PALEY; telling us that he had "so little of scientific habits, so moderate a power of generalizing," that "it may be doubted whether he was fully impressed with the evidence of mental existence;" and that "his limited and unexercised powers of abstract discussion appear not to have given him any task for metaphysical speculations." This is possible: it is equally probable, that PALEY's sagacity enabled him to foresee that if he once became involved in that labyrinth, he might puzzle his readers, bewilder himself, and "find no den in wandering mazes lost." One of the first questions that might meet him in that elevated region, would be the doctrine of Necessity,—Could the universe have been made other than it is? could the law of gravitation, for instance which prevents the earth and the heavenly bodies from careering wildly through space, have been dispensed with? and if so, how? and if not, was the First Cause controlled by an existent power analogous to the ancient Parcæ, or restrained by the inherent properties of things. Yet this awful question, from which the humble inquirer has shrunk alarmed, and the most daring retired baffled, is very coolly assumed by the Member of the French Institute,—and in an example inconceivably absurd. Speaking of habit, he says—"is a law of our nature that any exertion becomes more easy the more frequently it is repeated. This might have been otherwise: it might have been just the contrary, so that each successive operation should have been more difficult; and it is needless to dwell upon the slowness of our progress as well as upon the painfulness of all our exertions, nay rather the impossibility of our making *any advance in learning*, which must have been the result of such an intellectual conformation." Something much worse than the abolition of the school-master's occupation would have taken place; the human race must have become extinct almost at the time of its creation. Upon the assumption of Lord BROUGHAM, man could never have earned his bread by the sweat of his brow; he could not have acquired, much less have discovered, nay, on this crab-like principle he could not have retained, a knowledge, if miraculously endowed with it, of the most necessary arts, but would have miserably perished by starvation. If the race were fed, like Elijah, by ravens, it would not suffice; they must have been miraculously clothed and miraculously housed. So far as we can judge, however, even this would not have been enough, unless the world had been a dead level, without precipices, and perhaps without water. Under this fancied system of creation, it appears pretty certain that man could not have even acquired a knowledge of distances. If he walked at all, it must have been with inconceivable difficulty and incessant stumbling; the first ditch would throw him down; he would be dashed to pieces down the first precipice he came to. Truly we may say, with a panegyrical contemporary, what an extraordinary man is this BROUGHAM!

The constitution and functions of the mind lead readily to the consideration of its nature: and the argument of our author in favour of its immateriality is shrewd, broad, and ingenious; though these qualities are accompanied, if not attained, by a deficiency in philosophy exactness, which renders all by which he proves the immortality of man applicable to the higher class of animals. For part of this break-down he is not to be censured, unless it be for the point from which he chose to begin his attack. The materialist, we suspect, cannot be overthrown by proving that none of the properties of matter with which we are acquainted are consistent with mind, because the same may be predicated of the vital principle even as displayed in vegetable life. The difficulty will not be got over by allowing matter some occult quality sufficient to sustain organic life; because the qualities of consciousness, preception, memory, and the improvement which arises from habit, do not appear to differ at all in kind, and not more widely in degree between the higher order of animals and the savage than between the savage and the educated man. The only mode of crushing the materialist is, to give a definition of the human mind which shall not only exclude all the qualities possessed by animals, but shall display such a clearly spiritual property as to separate broadly the *soul* of man from the *life* of brutes. For want of this definition, the following passage, ingenious as it is, proves worse than nothing. The conciousness of mental identity "whilst the body has been constantly undergoing change in all its parts," is equally true of animals; as may be known by the length of time which they will remember persons and places. Yet even had the deficiency alluded to been supplied, the argument is overstated by Lord BROUGHAM: the conclusion would be probable, but is not positively proved. Every one *knows* that the mind retains its consciousness whilst the body is constantly changing; but we have no experience of its existence after death.

"The strongest of all the arguments both for the seperate existence of mind and for its surviving the body remains, and it is drawn from the strictest induction of facts. The body is constantly undergoing change in all its parts. Probably no person at the age of twenty has one single particle in any part of his body which he had at ten; and still less does any portion of the body he was born with continue to exist in or with him. All that he before had has now entered into new combinations, forming parts of other men, or of animals, or of vegetable or mineral substances, exactly as the body he now has will afterwards be resolved into new combinations after his death. Yet the mind continues one and the same, 'without change or shadow of turning. None of its parts can be resolved; for it is one and single, and it remains unchanged by the changes of the body. The argument would be quite as strong though the change undergone by the body were admitted not to be so complete, and though some small portion of its harder parts were supposed to continue with us through life.

"But observe how strong the inference arising from these facts are, both to prove that the existence of the mind is entirely independant of the existence of the body, and to show the probability of its surviving! If the mind continues the same while all or nearly all the body is changed, it follows that the existence of the mind depends now in the least degree upon the existence of the body; for it already survived a total change of, or, in the common use of the words, an entire destruction of that body. But again, if the strongest argument for now that the mind perishes with the body, nay, that any argument be, as it indubitably is, derived from the phenomena of death, the fact to which we have been referring affords an answer to this. For the argument is, that we know of no instance in which the mind has ever been known to exist after the death of the body. Now here is exactly the instance desiderated; it being manifest that the same process which takes place on the body more suddenly the whole of life, and at death itself does not more completely resolve the body into its element and form it into new combinations, than living fifteen or twenty years does destroy, by like resolution and combination, the self-same body. And yet after those years have elapsed, and the former body has been dissipated and formed into new combinations, the mind remains the same as before, exercising the same memory and consciousness, and so preserving the same personal identity as if the body had suffered no change at all. In short, it is not more correct to say that all of us who are now living have bodies formed of what were once the bodies of those who went before us, than it is to say that some of us who are now living at the age of fifty have bodies which in part belonged to others now living at that and other ages. The phenomena are precisely the same, and the operations are performed in like manner, though with different degrees of expedition. Now all would believe in the separate existence of the soul if they had experience of their existing apart from the body. But the facts referred to prove that it does exist apart from one body with which it once was united: and though it is in union with another, yet as it is not adherent to the same, it is shown to have an existence separate from and independent of that body. So all would believe in the soul surviving the body, if, after the body's death, its existence were made manifest. But the facts referred to prove that after the body's death, that is, after the chronic dissolution which the body undergoes during life, the mind continues to exist as before. Here, then, we have that proof so much desiderated—the existence of the soul after the dissolution of the bodily frame with which it was connected. The two cases cannot, in any soundness of reasoning, be distinguished; and this argument, therefore—one of pure induction, derived partly from physical science, through the evidence of our senses, partly from psychological science, by the testimony of our consciousness—appears to prove the possible Immortality of the Soul almost as rigorously as 'if one were to rise from the dead.'"

With the overstraining of which we have complained, there is occasionally a frankness of admission that ought not to have been hazarded without profound consideration. Thus, the writer concedes to animals a kind of reason, and seems half-disposed to admit the eternal existence of matter. On the other hand, amid all his looseness, there are attempts at the refined and subtle puzzles of the old schoolmen. If we correctly catch his meaning, he thinks it maintainable that things have no inherent qualities apart from our perceptions of them; urging against an eternity of time, that time is merely a "succession of ideas, and the consciousness and recollection which we have of that succession." His arguments on space are of a still more scholastic kind, and disfigured by all the scholastic jargon. But this section, "On the Argument à Priori," is, as we have said, the most successful piece of argument in the book. He establishes his own view in a couple of pages; the chapter, without necessity, occupies sixteen.

In taking leave of the first division of the *Discourse* we may observe, that for the sins of laxness and rashness Lord BROUGHAM is without defence. For his fundamental error in asserting that the evidence for Natural Theology is identical with that of the physical or mental sciences,' the true ground of censures is perhaps the boastful positiveness with which it is brought forward: the ground of the error itself seems closely identified with what is called Natural Theology. PALEY starts with assuming an analogy, where there is in reality none. We kick our foot against a stone, and say in reply that it may have lain there for ever, because we know nothing about its creation. We pick up a watch, and we neither *infer* design nor a maker, because we *know by experience* the existence of each; and even in the qualified case afterwards supposed by PALEY, experience must have taught the party the existence of an art analogous to watchmaking, before he would either believe or comprehend. If a savage picked up a watch, he would answer as we might about the stone; or if the watch were going, he might take it for an animal,—as some, we are told, have done. But if he found a bow and arrows, he would at once say they were made by man. From the works of art appealing to our experience, we prove; from the productions of nature—productions so far beyond our knowledge—we can only infer.

Are detailed treatises on Natural Theology, then, useless? To beget belief, we think they are; their use is in confirming faith. The productions of nature are all astonishing alike: as regards substance, the simplest shell—as regards structure, the meanest animalcule—are as wonderful as the most complex instance that can be selected; and the mysterious principle by which a radish-seed germinates into a vegetable, is far more so. But when the mind is, by early education, or by only other means, convinced of the existence of the Creator, the study of his work will expand the intellect, strengthen belief, and add ardour to devotion. The material world from the meanest production of earth to the vastness of the planetary system, will alike display his power, his wisdom, and his benevolence: the practical examination of our mental constitution, with its faculties, its affections, and its moral senses, will establish the same conclusions; and even the existence of the greatest of natural evils—the dependence of the mind upon the body, pain, and death—may be used to demonstrate both the wisdom and benevolence of the Creator, as regards our earthly condition. Some of these uses have been dimly alluded to by Lord BROUGHAM, in the second division of his work: but the views he entertains upon the subject of Theology have prevented him from doing more than alluding to them, and then only as a reply to an objection, not as an exposition of a science.—*Spectator, June 25.*

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